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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1885.

No. 970. 606 ~~305~~ 46

THE GERMAN SAVINGS BANK OF DAVENPORT, IOWA, APPELLANT,

vs.

THE COUNTY OF FRANKLIN, ILLINOIS.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF ILLINOIS.

FILED SEPTEMBER 24, 1885.

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1 Pleas in the circuit court of the United States of America for the southern district of Illinois, held at the city of Springfield, in said district, before the Honorable John M. Harlan, one of the justices of the Supreme Court of the United States of America, presiding judge, and the Honorable Samuel H. Treat, district judge of said district, associate judge, on Tuesday, the third of July, at the June term of said court, in the year of our Lord one thousand — and eighty-three, and of our Independence the one hundred and seventh year.

J. A. JONES, *Clerk.*

COUNTY OF FRANKLIN
vs.
BELLEVILLE AND ELDORADO RAILROAD COMPANY, George P. Dally, John Graham, German Savings Bank of Davenport, Iowa; Anthony Reiz, George W. Steele, Sarah E. Bruyn, People's Savings Bank of Evansville, Park Banking Company of Rockville, Indiana; Solomon Rothchild, Benjamin Rothchild, & Thomas E. Garvin. } In Chancery.

2 SOUTHERN DISTRICT OF ILLINOIS, *ss:*

Be it remembered that heretofore, to wit, on the twenty-first day of December, in the year of our Lord one thousand eight hundred and eighty-one, came the German Savings Bank of Davenport, Iowa, one of said defendants herein, by Messrs. Cook & Dodge, its solicitors, and filed in the clerk's of said court a transcript of the papers filed and proceedings thereon had in the circuit court of Franklin county, Illinois; which said transcript of papers filed and proceedings thereon had are in the words and figures following, to wit:

Bill.

STATE OF ILLINOIS, } *ss:*
Franklin County, }

Of the October Term of the Franklin County Circuit Court, A. D. 1880.

To the honorable judge of the Franklin county circuit court, in chancery sitting:

The complainant, The County of Franklin, most respectfully represents unto your honor that on the 24th day of July, A. D. 1869, the county court of said county made an order giving notice that
3 on the 11th day of September, A. D. 1869, in the various precincts in said county, at the usual voting places, an election would be held upon the question whether or not the county of Franklin should subscribe the sum of two hundred thousand dollars to the capital stock of the Belleville and Eldorado Railroad Company, payable in county bonds at par, due in twenty years from date, with interest at the rate of eight per cent. per annum, and to be of the denomination of not less than one thousand dollars each, said bonds

to be issued upon the following conditions, and not until they are complied with:

1st. That said railroad shall be located through Franklin county, running from Duquoin, in Perry county, to the town of Raleigh, in Saline county, within one-quarter of a mile of the court-house, in the town of Benton, in said Franklin county, and that a station be there located, and a passenger and freight-house erected within said quarter of a mile of the court-house.

2nd. That said railroad shall be commenced in the county of Franklin, within nine months from the date of said election, and completed through the county by the 1st day of June, A. D. 1872.

4 3d. That one hundred thousand dollars of said bonds, payable on said stock, shall be delivered to said company when said railroad is in running order to, and a station located, at Benton; and one hundred thousand dollars of said bonds to be delivered when said railroad is completed and in running order through said Franklin county.

4th. That there be not less than three stations located in the county, one at Benton as aforesaid, one between Benton and Duquoin, and one between Benton and Gallatia.

5th. That said election shall be open at 8 o'clock in the morning and continue open until six o'clock in the afternoon, and shall be conducted by the judges of elections appointed for the November election in 1868, if present; if not, judges may be chosen as at other elections.

6th. That persons voting at such election for subscription shall have written or printed on their tickets: For subscription. Those voting against subscription shall have written or printed on their tickets: Against subscription.

7th. And provided also, That said subscription shall receive a number of votes equal to a majority of all the votes cast in
5 said county at the last general election of county officers, as will more fully appear by a reference to a copy of said order filed herewith and marked Exhibit "A," and made a part of this bill.

Complainant further states that on the 11th day of September, A. D. 1869, an election was held in said county on the proposition above named in said Exhibit "A."

That on the 6th day of November, A. D. 1869, the county court of said county, by an order then entered of record, proceeded to subscribe $200,000 to the capital stock of said railroad company, on certain conditions and limitations hereinafter mentioned, to wit, said stock was to be paid for, according to the terms of said subscription, in the bonds of said county at par, payable twenty years after date, with 8 per cent. interest, payable semi-annually.

That said subscription was made to said railroad company on the following conditions, and that said bonds were never to be issued until they were complied with, to wit:

1st. That said railroad shall be located through Franklin
6 county, running from Duquoin, Perry county, to the town of Raleigh, in Saline county, within one-quarter of a mile of the court-house in the town of Benton, in said Franklin county, and that a station be there located and a passenger and freight-house erected within said quarter of a mile of the said court-house.

2nd. That said railroad shall be commenced in the county of Franklin within nine months from the date of said election and completed through the county by the 1st day of June, A. D. 1872.

3d. That one hundred thousand dollars of said bonds, payable on said stock, shall be delivered to said company when said railroad is in running order and the necessary cars running thereon from Duquoin or El Dorado to Benton, and a station located at Benton; and one hundred thousand dollars of said bonds to be delivered when the said railroad is completed and in running order and the necessary rolling-stock thereon through said Franklin county.

4th. That there be not less than three stations located in said county of Franklin, one at Benton as aforesaid, one between Benton and Duquoin, and one between Benton and Gallatia.

7 5th. That a- the time said bonds are issued and stock received said railroad, its fixtures, and rolling-stock, are not to be mortgaged for more than the actual cash value of the same, and that there be no mortgage or lien upon the same under which said railroad fixtures or rolling-stock can or may be exposed to sale within a shorter time than twenty-five years from the date of such mortgage or lien, as will more fully appear by reference to a copy of said order of said county court, which is filed herewith, marked Exhibit "B," and made a part of this bill.

That the orders above named are the only orders which said county court ever made relative to said subscription to the capital stock — said railroad company at any time prior to the 3d day of July, A. D. 1870, and that they are the only orders that was ever made for or on behalf of said county relative to said subscription to said railroad company at any time prior to the adoption of the present constitution of the State of Illinois.

That said election, held on the 11th day of September, A.
8 D. 1869, was the only election ever held in said county at any time relative to taking stock in said railroad company, and that no subscription except that above named was ever made or attempted to be made by said county to the capital stock of said railroad company at any time prior to the 6th day of February, A. D. 1871.

That complainant is informed and believed, and on information and belief charges the fact to be, that said county court never ordered the clerk of said court or the sheriff of said county to give any notice of the election held on the 11th day of September, A. D. 1869; and that complainant, on information and belief, as above stated, charges the fact to be that neither the clerk or sheriff of said county, or any other person or persons, ever gave any notice of said election, as required by law.

That said railroad company never have complied with the condi-

tions and terms on which said stock was subscribed; that no work was commenced within said county on said railroad until the year A. D. 1877, and that no part of the same was completed in said county until some time during the year A. D. 1877.

9 That on the 6th day of February, A. D. 1871, the county court of said county made an order reciting that on the 6th day of November, A. D. 1869, a subscription of two hundred thousand dollars was ordered to be made to the Belleville and Eldorado Railroad Company, and that said subscription required that the said railroad should be commenced in the county of Franklin within nine months from the date of the election, authorizing said subscription to be made, to wit, on the 11th day of June, A. D. 1870, and completed through said county by the 1st day of June, A. D. 1872, and that the time for commencing building of said railroad has expired.

It is therefore ordered that the time for the commencing and completing of the said railroad be extended, and that the said subscription be made on the stock books of the Belleville and Eldorado Railroad Company upon the following terms and conditions, and not until they are complied with, to wit: That said two hundred thousand dollars ($200,000), subscribed to said capital stock as aforesaid, be payable in the bonds of county of Franklin at part, said

10 bonds to be due in twenty years from the date thereof, and to draw interest payable semi-annually at the rate of eight per cent. per annum, said bonds to be of the denomination of not less than one thousand dollars cash.

That said railroad shall be located through Franklin county, and running from Duquion, in Perry county, to the town of Raleigh, in Saline county, within one-quarter of a mile of the court-house in the town of Benton, in the said Franklin county, and that a station be there located, and a passenger and freight-house be erected within said quarter of a mile of said court-house.

That said railroad shall be commenced in the county of Franklin on or before the first day of January, A. D. 1872, and completed through the county by the first day of January, A. D. 1874.

That one hundred thousand dollars of said bonds, payable on said stock, shall be delivered to said company when said railroad is in running order, and the necessary cars, propelled by steam, running thereon from Duquoin or El Dorado to Benton as aforesaid, and a station located at Benton; and one hundred thousand dollars

11 of said bonds to be delivered when the said railroad is completed and in running order, and necessary rolling-stock thereon, through said Franklin county; that there be not less than three stations located in the said Franklin county, one at Benton as aforesaid, one between Benton and Duquoin, and one between Benton and Gallatia, all of which will more fully appear by reference to a copy of the said order of said county court, which is filed herewith, marked Exhibit "C," and made a part of this bill.

That complainant is informed and believes, and on information and belief charges the fact to be, that no subscription was ever made by said county court on the stock books of said company prior to the said 6th day of February, A. D. 1871, and that if any subscrip-

tion was ever made by said county court on the stock books of said railroad company it was made after the 6th day of February, A. D. 1871, on the terms and conditions mentioned in said order made on the 6th day of February, A. D. 1871, and not upon the terms and conditions as shown and set forth in said Exhibits "A" & "B."

12 That on the 9th day of March, A. D. 1871, the county court of said county made on order stating that whereas on the 11th day of September, A. D. 1869, upon a proposition for Franklin county to subscribe two hundred thousand dollars to the capital stock of the Belleville and Eldorado Railroad Company a majority of the legal voters of the county voted for the said subscription:

Now, therefore, the County of Franklin, of the State of Illinois, acting by the county judge and the associate judges of the Franklin county court, and attested by the official seal of said Franklin county, doth hereby subscribe the sum of two hundred thousand dollars for two thousand shares of the capital stock of the Belleville and Eldorado Railroad Company, said shares to be of the amount of one hundred dollars each; said stock is subscribed and the bonds to be issued upon the following conditions, and not until they are fully complied with, to wit: Said stock to be paid in Franklin county bonds at par, the bonds to be payable in twenty years after date with interest at eight per cent. per annum payable semi-annually in New York, the bonds to be of the denomination of one thousand dollars each, with coupons for the interest attached

13 thereto, the said county bonds to be delivered to said company as follows: One hundred thousand dollars of said bonds to be delivered when the section of said railroad extending from the eastern boundary of Franklin county to Benton is completed in good running order, and a train of cars, propelled by steam, shall have run over the same, it being left optional with the company which section of the road it will build first; and the bonds of the county due on either section of the road shall be delivered to said company when that section is completed and the cars shall have been run over it to Benton as aforesaid; and said county bonds shall be valid and binding on the county from and after the delivery thereof to said company, and the faith of Franklin county is hereby pledged for the payment of the bonds issued to Belleville and Eldorado Railroad Company; the said railroad to be commenced within the county in one year and completed through the county within three years from the date of this subscription. It being further provided that

14 said railroad company shall erect a passenger and freight depot on said railroad at Benton, within one-quarter of a mile of the present court-house, and at least one other freight and passenger depot between Benton and each of the county lines in said Franklin county through which the road shall run, it is further provided that this subscription and those formerly made shall not be construed as intending to subscribe more than two hundred thousand dollars to said Belleville and Eldorado Railroad Company or to any company or companies that may build railroads within said county, as will more fully appear by reference to a copy of said

order which is filed herewith, marked Exhibit "D," and made a part of this bill.

The complainant further states that on the 13th day of December, A. D. 1876, the board of supervisors of said county, having adopted township organization, made an order to effect following, to wit:

Whereas in the various precincts of the county of Franklin and State of Illinois, at the usual voting places therein, on Saturday, September 11th, A. D. 1869, an election was held in pursuance of an order made at special term of county court of Franklin county, began and held at the court-house in Benton, on Saturday, the 24th day of July,
15 A. D. 1869, upon the question whether or not the county of Franklin should subscribe the sum of two hundred thousand dollars to the capital stock of the Belleville & Eldorado Railroad Company, payable in county bonds at par, due twenty years from date, with the privilege of paying after five years from date, with interest payable semi-annually at the rate of eight per cent per annum, and to be of the denomination of not less than one thousand dollars each; and whereas at such election the qualified voters of said county did, by a majority of the votes, taking as a standard the number of votes cast for county officials at the last general election previous to the vote had upon the question of subscription as aforesaid, authorize the county court of said Franklin county to subscribe the sum of two hundred thousand dollars to the capital stock of said Belleville & Eldorado Railroad Company: Therefore, at a regular meeting of the board of supervisors of Franklin county began and held at the court-house in the town of Benton, county of Franklin, and State of Illinois, on Wednesday, the 13th day of December, A. D.
16 1876—present: James M. Brayfield, chairman, Wm. Flatt, S. P. Kirkpatrick, L. Day, C. Moore, M. C. Ingram, W. B. Tyrell, J. M. Wier, & J. W. Williams, members of the board of supervisors, with Evan Fitzgerrell, county clerk, and James M. Akin, sheriff—the following order was entered, that is to say: It is considered and ordered by the board of supervisors of said county, by authority of the vote heretofore mentioned and the authority of an act of [the] General Assembly of the State of Illinois, entitled "An act to incorporate the Belleville & Eldorado Railroad Company, approved February 22d, A. D. 1861," and an act of the said General Assembly, approved November 6th, A. D. 1849, authorizing counties to take stock in railroad companies, that the county of Franklin, in the State of Illinois, does hereby subscribe to the capital stock of the Belleville & Eldorado Railroad Company the sum of one hundred and fifty thousand dollars, being seventy-five thousand dollars by virtue of each of the acts of the General Assembly herein mentioned. That said capital stock so subscribed as aforesaid be payable in the bonds of Franklin county aforesaid, at par, said
17 bonds to be due in twenty years, and may be paid after the expiration of five years from their date, at the option of the county; said bonds as aforesaid to draw interest at rate of eight per cent. per annum, interest payable semi-annually and to be of the denomination of not less than one thousand dollars each.

It is further ordered by the board of supervisors that the said

bonds be issued and placed in the hands of trustee, to be paid out upon the following conditions:

First. That said railroad shall be located through Franklin county, running from the junction of said road near the west line of Saline county, Illinois, to Duquoin, Perry county, Illinois, and within one-fourth of a mile of the court-house in the town of Benton, in said Franklin county, and that a station be there located, and a passenger and freight depot be there located within said one-fourth of a mile of said court-house.

Second. That sailroad shall be commenced within thirty days from the date of this order and completed by the 15th day of October, A. D. 1877.

Third. That seventy-five thousand dollars of said bonds be applied to the building of the road from said junction, in Saline
18 county, to Benton, in Franklin county, and that seventy-five thousand dollars be applied to the building of the road from Benton to Duquoin, to be delivered and paid to the contractors as each mile of the road is completed under the contract in proportion to the whole number of miles in each division built, and providing that the contract of building is to include the building of the whole road from Saline county to Duquoin.

Fourth. That there be not less than three stations located in said county of Franklin and at Benton as aforesaid, one between — and Duquoin, and one between Benton and the Saline county line, as will more fully appear by reference to copy of said order made by said board of supervisors as aforesaid, which is filed herewith, marked Exhibit "E," and made a part of this bill.

The complainant further represents that on the 12th day of November, A. D. 1877, and long after the period limited for the completion of said railroad in and by the terms of the said order of the board of supervisors, on the said 13th day of December, A. D. 1876, had expired, and long after the alleged subscription at that time
19 claimed to have been made had lapsed, become, under —, null and void, the board of supervisors of said county made another order to the effect following, to wit:

It is therefore considered and ordered by the board of supervisors of Franklin county, in the State of Illinois, that the order of said board made on the 13th day of December, A. D. 1876, subscribing $150,000.00 to the Belleville and Eldorado Railroad Company, be, and the same is hereby, amended as follows, to wit, that said order subscribing said stock read as follows, to wit: That the county of Franklin, in the State of Illinois, under the provisions of an act of General Assembly of the State of Illinois, entitled An act to incorporate the Belleville & Eldorado Railroad Company, approved February 22d, A. D. 1861, authorizing subscription to the capital stock of said railroad, and in accordance with the majority of votes cast at an election held in said Franklin county in conformity with said act, on the 11th day of September, A. D. 1869, does hereby subscribe the sum of one hundred thousand dollars to the capital stock of the Belleville and Eldorado Railroad Company, payable in bonds
20 of said Franklin county at par, said bonds to be due twenty

years after the date thereof, and payable at the option of said Franklin county after five years, said bonds to bear interest from date, at the rate of eight per cent. per annum, payable semi-annually, said bonds to be of the denomination of one thousand dollars each. And that the county of Franklin, in the State of Illinois, under the provisions of an act of the General Assembly of the State of Illinois, entitled An act to authorize cities and counties to subscribe stock to the railroad, approved November 6th, A. D. 1849, and under the authority as evidenced by a majority of the qualified voters of said Franklin county at an election held in said county in conformity with the provisions of said act, on the 11th day of September, A. D. 1869, does hereby subscribe the sum of fifty thousand dollars to the capital stock of the Belleville & Eldorado Railroad Company, payable in bonds of said Franklin county, at par, said bonds to be due twenty years after date thereof, and payable at the option of said Franklin county after five years; said bonds to bear interest from
date at the rate of eight per cent. per annum, payable semi-
21 annually; said bonds to be of the denomination of one thousand dollars each.

It is therefore considered and ordered by the board of supervisors of Franklin county, in the State of Illinois, that the chairman of the board of supervisors of said Franklin county and the clerk thereof are hereby ordered and directed to execute bonds of said Franklin county in payment of said amended subscription to the capital stock of the Belleville and Eldorado Railroad Company as follows, to wit:

That said chairman and said clerk execute one hundred bonds of said Franklin county, of the denomination of one thousand dollars each, payable to the Belleville and Eldorado Railroad Company or bearer twenty years after the date thereof, and payable at any time after five years, and before said bonds become due, at the option of said Franklin county, with interest thereon from the date thereof at the rate of eight per centum per annum, payable semi-annually on the 1st day of January and July of each year, said bonds and
the interest thereon to — made payable in the city and State
22 of New York, at the place where the treasurer of the State of Illinois pays the interest and debt of said State; said bonds to be executed in conformity with and under the provisions of an act of the General Assembly of the State of Illinois entitled An act to incorporate the Belleville and Eldorado Railroad Company, approved February 22d, A. D. 1861, authorizing subscription to the capital stock of said railroad company, and in accordance with a majority of votes cast at an election held in said county in conformity with the provisions of said act, on the 11th day of September, A. D. 1869.

It is further ordered by said board of supervisors of said Franklin county that the chairman of said board of supervisors and the clerk are hereby ordered and directed to execute bonds of said Franklin county in payment of said amended subscription to the capital stock of the Belleville and Eldorado Railroad Company, as follows, to wit:

That said chairman and said clerk execute fifty bonds of said Franklin county of the denomination of one thousand dollars each, payable to the Belleville and Eldorado Railroad Company or
23 bearer, twenty years after the date thereof, and payable at any time after five years, and before said bonds become due, at the option of said Franklin county, with interest thereon from the date thereof, at the rate of eight per cent. per annum, payable semi-annually on the 1st day of January and July of each year; said bonds, and the interest thereon, to be made payable in the city and State of New York, at the place where the treasurer of the State of Illinois pays the interest and debt of said State; said bonds to be executed in conformity with, and under the provisions of, an act of the General Assembly of the State of Illinois, entitled An act to authorize cities and counties to subscribe stock to railroads, appro- ed November 6th, A. D. 1849, and as authorized by a majority of the qualified voters held in said county, in accordance with the provisions of said act, on the 11th day of September, A. D. 1869.

It is further ordered by the board of supervisors of said Franklin county that the clerk of said court made a record of said bonds and the coupons thereto attached, as required by law.

24 It is further considered and ordered by the board of supervisors that John G. St. Clair, chairman, and Joseph M. Weir, member of said board, are hereby appointed commissioners in behalf of said Franklin county, and said commissioners are hereby ordered and directed to safely convey said bonds above described, when executed, to the city of Evansville, and deposit the same with the Evansville National Bank, trustee as aforesaid, and take receipt therefor. Said commissioners are further ordered and directed to receive from said trustee, in exchange for said bonds so deposited by them, the aforesaid mentioned 150 bonds of said Franklin county, executed as aforesaid on the 22nd day of December, A. D. 1876, and deliver the same to said board of supervisors, or its committee appointed to cancel and destroy the same.

It is further ordered by the board of supervisors of said Franklin county that said Evansville National Bank, trustee as aforesaid, receive said bonds, to be executed pursuant to the order of said board of supervisors at their special November term, A. D. 1877, and that said trustee hold said bonds and deliver
25 the same to said railroad company, only on the same conditions and under the same restrictions as specified in the order of said board of supervisors, made, as aforesaid, on the 13th day of December, A. D. 1876, as will more fully appear by reference to a copy of said order made aforesaid, which is filed herewith, marked Exhibit "F," and made a part of this bill.

Complainant further represents that on the 5th day of March, A. D. 1878, the board of supervisors of said county adopted a resolution extending the time to the board of directors [of] the said Belleville and Eldorado Railroad Company until the 15th day of September, A. D. 1878, for the building of said railroad, as will more fully appear by reference to a copy of said resolution, which is filed herewith, marked Exhibit G, and made a part of this bill.

Complainant further states that on the 22d day of July, A. D. 1878, said board of supervisors adopted a resolution to the effect following, to wit:

Whereas one hundred and fifty of the railroad bonds of Franklin county, as bonds of this county which were designated to be
26 paid upon certain conditions to the Belleville & Eldorado Railroad Company for stock, for the sum of one thousand dollars each, were deposited with the Evansville National Bank, Evansville, Indiana, as trustee, by the supervisors of said county, under and by virtue of an order of said board of supervisors, made at the November special meeting thereof, A. D. 1877; and whereas, there is doubt of the legality of placing said bonds out of the immediate custody and possession of this board: Therefore it is ordered by the said board of supervisors of said county that Chas. A. Akin, county clerk of said county, be, and he is hereby, appointed agent and commissioner for and on behalf of said county, to proceed to Evansville, Indiana, at on-e, and for and on behalf of Franklin [county] demand and receive said bonds from said bank and receipt for the same, and pay said bank all reasonable charges for keeping said bonds; and that said Chas. A. Akin keep and retain the possession of the said bonds for and on behalf of this board of supervisors until otherwise directed by this board or the successors
27 thereof, and that said Chas. A. Akin report to this board, at its next meeting, of his acts an- doings under this order.

Dated this 22d day of July, A. D. 1878.

A copy of said resolution is filed herewith, marked Exhibit "H," and made a part of this bill.

That on the 16th day of September, A. D. 1878, the board of supervisors of said county adopted a resolution to effect following, viz: That we request Judge D. M. Browning to make a report to this court as to the amount of Franklin county bonds he has signed, as agent on behalf of Franklin county, to the Belleville & Eldorado Railroad Company, or the contractors of said road, said report to contain the numbers of the several bonds and under what act issued; also to show the amount of stock by certificates that has been given by said railroad company, and to make report to this board at 1 o'clock p. m. of this day.

Dated this September 16th, A. D. 1878.

Copy of said resolution is filed herewith, marked Exhibit "I," and made a part of this bill.

That on said 16th day of Sept., A. D., 1878, Hon. D. M. Browning, in response to the resolution last mentioned, made a report to said board of supervisors, which was entered of record in
28 said supervisors' court. Said report is in substance and to the effect following, to wit:

To the hon. board of supervisors of Franklin county, Illinois:

The undersigned, county judge of Franklin county, Illinois, would respectfully report, in accordance with your resolution of this day, that under the contract made by your board subscribing stock to the Belleville and Eldorado Railroad Company I have give- orders

to James Hill & Co. for the Franklin county bonds as each mile of said railroad was built from Saline county, Illinois, to Benton, and under said orders James Hill & Co. have [received] from the Evansville Fational Bank, as trustee, $75,000 in Franklin county bonds, being bonds No-. 1 to seventy-five (75), inclusive, issued under act of February 22d, A. D. 1861, incorporating the Belleville and Eldorado Railroad Company. The Evansville National Bank, as trustee, holds, subject to the orders of the board of supervisors of this county, $75,000 in certificates of stock issued by said railroad company to Franklin county, Illinois. There has been one-half of the bonds delivered and one-half of the stock certificates deposited under
29 the subscription made by your hon. body.

Respectfully submitted,

D. M. BROWNING.

Sept. 16th, 1878.

A copy of which report by said D. M. Browning as aforesaid is filed herewith, marked Exhibit "J," and made a part of this bill.

That on the 16th day of September, A. D. 1878, the said Belleville and Eldorado Railroad Company, by F. M. Youngblood, their solicitor, presented to said board of supervisors a petition, which petition was entered on the records of said court, and is to the effect following, to wit:

STATE OF ILLINOIS, }
County of Franklin, } ss:

To the hon. board of supervisors of Franklin county, Illinois:

The Belleville and Eldorado Railroad Company respectfully represents unto your honorable body that in pursuance to the contract heretofore made with this hon. board James Hill & Co., the contractors for the construction of said railroad from the east line of said county to Duquoin, in Perry county, Illinois, have completed said railroad to Main street, leading from the court-house in Benton and within one-fourth of a mile of said court-house, and that
30 trains of cars have been propelled over said road by steam; that the time allowed by your honorable body for the completion of said railroad expired on the 15th instant; that no further extension of said road can be made without the friendly co-operation of your hon. body in extending the time to said company and contractors for the completion of said road. Said company feel warranted in stating that if a reasonable time be fixed upon by your hon. body that work will at once progress on said road, but owing to the fact that the winter season is rapidly approaching, in which the work may be necessarily delayed in consequence of unfavorable weather, the company feel- constrained to ask for an extension of one year from this date. If, however, your honorable body should feel disinclined to act in the premises at this time so as to insure the success of the enterprise your petitioners respectfully ask that you adjourn without action for such time as will enable each of your

honorable body to consult his constituents on the subject of an extension of time.

F. M. YOUNGBLOOD,
Solicitor for the Belleville & Eldorado Railroad Company.

31 A copy of said petition is filed herewith, marked Exhibit "K," and made a part of said bill.

That afterwards, to wit, on the said 16th day of September, A. D. 1878, the board of supervisors of said county adopted a resolution to the effect following, to wit:

STATE OF ILLINOIS, } ss:
Franklin County, }

To the chairman and gentlemen of the board of supervisors of Franklin county, Illinois:

Whereas there are one hundred and fifty bonds of the denomination of one thousand dollars each issued in aid of the Belleville & Eldorado Railroad Company for the construction of a railroad through the county of Franklin and State of Illinois, at the special November term, A. D. 1876, with the express understanding that said road was to be completed through the said county to Duquoin, in Perry county, Illinois, by the 15th day of March, A. D. 1878; and whereas said railroad company failed upon their part to complete said railroad according to the contract above mentioned; and whereas the county board of said county did, at the March
32 term, A. D. 1878, extend the time for the completion of said road to the said company until the 15th day of September, A. D. 1878; and whereas the said railroad company again failed to complete said road according to the contract last above mentioned:

Therefore be it resolved by the county board of said Fraklin county, at a special meeting held for county business on the 16th day of September, A. D. 1878, That we do hereby declare the said contract at an end, and that we do authorize and request the First National Bank of Evansville, Indiana, to transmit by express to Duquoin, Illinois, all the books and certificates of stock in said railroad that may be in possession of said bank to Chas. A. Akin, who is commissioner and agent on behalf of the people of said Franklin county, and the said Chas. A. Akin is hereby authorized to receipt for the same, and pay all reasonable charges and safely keep said bonds for the further action of the said county board.

A copy of said resolution is filed herewith marked Exhibit "L," and is made a part of this bill.

That on the 21st day of October, A. D. 1878, the board of
33 supervisors of said county made an order to the effect following, to wit:

Resolved by the board of supervisors of Franklin county, in special meeting assembled, That the time for the completion of the said Belleville and Eldorado railroad from Benton to Duquoin be extended to said company and contractors until the first day of November, A. D. 1879; and be it further ordered by said board of supervisors that said Evan-ville National Bank as aforesaid be, and is

hereby, ordered to pay to said railroad company the bonds of said county now in its hands as soon as the railroad is completed to Duquoin as provided in said original contract.

A copy of said order is filed herewith, marked Exhibit "M," and made a part of this bill.

Complainant further states that on the 4th day of June, A. D. 1879, the board of supervisors of said county adopted a resolution to the effect following, to wit:

Resolved by the board of supervisors of Franklin county, That the suit now pending in the circuit court of Franklin county, in which the County of Franklin is complainant and the Belleville and Eldorado Railroad Company and others
34 are defendants, it being a bill in chancery to enjoin the delivery of the bonds of said county now in the hands of the Evansville National Bank, as trustee, to the Belleville and Eldorado Railroad Company under its contract with said county as said railroad shall be completed to Duquoin, be dismissed and continued, and that said bonds be delivered in strict compliance with the original contract made with the said county and the railroad company and the contractors.

And be it further resolved by the board of supervisors, That John J. St. Clair hereafter as said road progresses from Benton to Duquoin, examine and receive said road under said contract as therein provided by the county judge of said county to do and give orders to the trustee for said bonds, and that the trustee hereafter deliver said bonds on the order of the said John J. St. Clair, showing that said railroad has been completed as provided in said contract.

And be it further resolved, That on the delivery of said bonds, or any part thereof, on the order of the said John J. St.
35 Clair, the chairman of this board is hereby directed to attach his certificate of registration to each of said bonds.

And be it further resolved, That all resolutions of this board heretofore passed on this subject inconsistent herewith, be, and the same are hereby, repealed and revoked.

And it is further resolved, That F. M. Younglood, be, and he is hereby, authorized and empowered to take such legal steps as may be necessary to have said suit above mentioned dismissed and discontinued.

S. F. BUNTIN, *Mover.*

By request the yeas and nays are called for on adoption of the above resolution, which showed the following votes:

Yeas—John J. St. Clair, Joseph Hamnons, S. F. Buntin, John G. Bowling.

Nays—Jesse Taylor, J. W. Williams, J. M. Darr, James Martin.

There being a tie vote, the chairman voted in the affirmative.

A copy of said resolution is filed herewith and marked Exhibit "N," and made a part of this bill.

The complainant further states and charges the fact to be that the above and foregoing orders and resolutions are all the orders

and resolutions which were ever passed, made, or adopted
36 by the county court of said county, with reference to subscription of stock to the Belleville and Eldorado Railroad Company, or the issuance of bonds in payment of such stock, or the board of supervisors of said county subscribing to the capital stock of said Belleville & Eldorado Railroad Company, or pretending or attempting to subscribe to the capital stock of the Belleville and Eldorado Railroad Company; that no order or oders, resolution or resolutions were ever made, passed, or adopted by the county court of said county, or supervisors of said county, extending the time to commence, complete, or construct said railroad, except the orders and resolutions above named in this bill.

That the election held on the 11th day of September, A. D. 1869, is the only election that was ever held in said county authorizing said county to subscribe to the capital stock of the Belleville & Eldorado Railroad Company.

That the terms and conditions and limitations on which said stock was voted at said election, and the terms, conditions, and limitations on which said stock was subscribed to said railroad
37 company on the 6th day of November, A. D. 1869, have never been revoked, changed, altered, amended, or modified by the voters of said county, or the county court of said county, or the board of supervisors of said county, and that the order of the county court of said county, made as aforesaid on the 24th day of July, A. D. 1869, and that the said order made by the county court of said county on the 6th day of November, A. D. 1869, are all the orders, resolutions, or proceedings which were had or made, passed, adopted or entered by said county court of said county prior to the 9th day of February, 1871, relative to subscribing stock to said railroad company or constructing said railroad; that said county never was under township organization until the year A. D. 1872; that said railroad company have never complied with the terms, conditions and limitations on *the* which the subscription of said county was voted at said election and subscribed by said county court on the 6th day of November, A. D. 1869; that the work was not commenced to build or construct said railroad in said county
38 within nine months from the date of said election, nor was it completed through said county by the 1st day of June, A. D. 1872.

That no work was done in said county to build or construct said railroad until after the month of March, A. D. 1877, and it was not commenced in said county of Franklin until after the month of March, A. D. 1877, and that said railroad was not completed through said county until the month of October, A. D. 1879.

That soon after the aforesaid order was made on the 13th day of December, A. D. 1876, one hundred and fifty bonds of said county, due twenty years after date, of the denomination of one thousand dollars each, to be paid after the expiration of five years from the date thereof, at the option of said county, to draw interest at the rate of eight per cent per annum, were issued with coupons thereto attached, directed and ordered by the board of supervisors of said

county in their said order heretofore mentioned, made on the 13th day of December, A. D. 1876; that said bonds were afterward placed in the hands of a trustee to be paid out upon the terms and
39 conditions made in said order of said board of supervisors last above named.

That after said order of the said board of supervisors of said county was made, on the 12th day of November, 1877, changing and amending said order made on the 13th day of December, A. D. 1876, one hundred bonds of said county of the denomination of one thousand dollars each, payable in twenty years after the date thereof, and payable at the option of said Franklin county after five years, to bear interest from date at the rate of 8 per cent. per annum, payable semi-annually on the first day of January and July of each year, were issued and placed in the hands of a trustee, to be delivered and paid out as mentioned in said order. That said bonds were to be made payable to the Belleville & Eldorado Railroad Company, or bearer, the interest thereon to be made payable in the city and State of New York. That said bonds purported to be issued under the provisions of an act of the General Assembly of the State of Illinois entitled "An act to incorporate the Belleville & Eldorado Railroad Company," approved
40 February 22d, A. D. 1861. That on the same day fifty bonds of said county were issued of the denomination of one thousand dollars each, and were also placed in the hands of said trustee, to be paid out and delivered upon the same conditions and terms as the one hundred bonds last mentioned, — were to bear interest from date at the rate of 8 per cent. per annum, payable on the 1st day of January and July of each year, the bonds and interest to be paid in the city and State of New York. Said fifty bonds last above named purported to be issued under an act of the General Assembly of the State of Illinois, approved November 6th, A. D. 1849, authorizing counties to take stock in railroad companies, and said fifty bonds last above named were numbered from 1 to 50, inclusive. That bond number fifty of the fifty bonds last above named was not delivered to said railroad company under said agreement or order of said board of supervisors.

A copy of said bond number fifty last above named is filed herewith, marked Exhibit "O," and made a part of this bill.
41 That the one hundred and fifty bonds issued as aforesaid by an order of the board of supervisors of said county as aforesaid, on the 13th day of December, A. D. 1876, were never delivered to said railroad company, but were destroyed by order of said board of supervisors. That no bond or bonds were ever issued by said county in payment of stock to said railroad company after the 13th day of November, A. D. 1877, nor was any bonds of said county ever issued in pursuance of said election held *held* on the 11th day of September, A. D. 1869, until after the 13th day of December, A. D. 1876. That in violation of the terms, conditions, and limitations on which said subscription was voted and subscribed to the capital stock of the Belleville and Eldorado Railroad Company, the board of supervisors of said county paid out said bond-, or caused

them to be paid out, and delivered to said Belleville and Eldorado Railroad Company, or its contractors, the said 149 bonds of said county issued under the said order of the said board of supervisors on the 13th day of November, A. D. 1877, as follows, to wit,
42 as each mile of the road was completed under the contract in proportion to the whole number of miles in each division built, the contract of building is to include the building of the whole road from Saline county to Duquoin. The said Belleville & Eldorado Railroad Company thereby received about ($5,000) five thousand dollars for each and every mile of the road as they completed the same, which was in violation of the terms, conditions, and limitations upon which the said stock was voted and subscribed. That said one hundred bonds of said county, which were issued as aforesaid, and purporting to be issued under the act of the General Assembly of the State of Illinois entitled An act to incorporate the Belleville & Eldorado Railroad Company, were numbered from one to one hundred, inclusive, and were each dated the 13th day of December, A. D. 1877. That said railroad was constructed from El Dorado, Illinois, to Benton, in said Franklin county, about the 15th day of September, A. D. 1878. That seventy-five of the county bonds were delivered to said railroad company as aforesaid
43 at and prior to the time it was constructed to Benton as aforesaid; that said road was constructed from Benton, in said county, to Duquoin, Illinois, after the 21st day of October, A. D. 1878, and that seventy-four of county bonds issued as aforesaid were delivered to said railroad company after said 21st day of October, A. D. 1878; that twenty-five of said bonds so delivered as aforesaid were from number seventy-six to number one hundred, inclusive, purporting to be issued under the said act of the General Assembly of the State of Illinois entitled An act to incorporate the Belleville and Eldorado Railroad Company, approved February 22d, A. D. 1861; that forty-nine of said bonds so delivered as last aforesaid purported to be issued under an act of the General Assembly of the State of Illinois entitled An act to authorize cities and counties to subscribe stock to railroads, approved November 6th, A. D. 1849; and that said forty-nine bonds were numbered from one to forty-nine, inclusive; that the above-named one hundred and forty-
44 nine bonds are the only bonds of said county which were ever delivered to any railroad company or companies, and that they are the only bonds ever issued by said county to or in aid of any railroad company or companies, except the one hundred and fifty bonds issued and destroyed as aforesaid; that the seventy-four bonds of said county last above named were delivered to said railroad company before the presiding judge of the county court of said Franklin county had ever certified under oath that all the preliminary conditions required to be done by the 17th section of an act of the General Assembly of the State of Illinois entitled An act to fund and provide for paying the railroad debts of counties, townships, cities, and towns, approved April 16th, A. D. 1869, to authorize the registration of said bonds and to entitle them to the benefits of this act, had been complied with, nor did the

presiding judge of said county court ever make or transmit such certificate to the State auditor at any time before said seventy-four bonds last above named, or either of them,
45 were delivered to said railroad company, nor did the presiding judge of said county court, at any time prior to the delivery of said seventy-four bonds, or either of them, last above named, to said railroad company, make, transmit, or forward to said State auditor a statement of the date, amount, number, maturity, and rate of interest of such bonds, and to what company and under what law issued. That if any such certificate or statement was ever made by said presiding judge it was made long after all of the seventy-four bonds last above named were delivered to said railroad company.

That the board of supervisors of said county, by their aforesaid resolution, passed and adopted June 4th, A. D. 1879, as shown in the aforesaid Exhibit "N," attempted to supercede the presiding judge of said county court by substituting one John J. St. Clair to examine and receive said railroad instead of the county judge, and that said St. Clair did proceed to obey and did carry out said resolution, and did make all the certificates, statements, and oaths
46 which said 17th section of the act last aforesaid required the presiding judge of said county court to make, and that said St. Clair did forward the same to the State auditor, and that said St. Clair caused said seventy-four bonds last above named to be delivered to said railroad company, as provided in said Exhibit "N." The complainant further states that the said Belleville and Eldorado Railroad Company did, on the 31st day of October, A. D. 1877, execute a trust deed to the Farmers' Loan and Trust Company of the city and State of New York upon all of said road, excepting and excluding fifteen miles in Saline county, Illinois, with the lands, depots, grounds, ways, rights of ways, station-houses, machine, and all other shops and houses and buildings, structures, and roadbeds, tracts, sidings, cars, engines, tenders, rolling-stocks, and machinery, tools, implements, fuel, material, and property, both real and personal, and all rights, credits, incomes, earnings, profits, choses in actions, and franchises of the party of the first part, connected with or appertaining to said line of railroad, intending thereby
47 to include all the property belonging to or which might thereafter be acquired by the party of the first part, as connected with or appertaining to said line of railroad now constructed or to be constructed, equipped, and operated, and all rights and privileges, and appurtenances thereunto belonging, to have and to hold the same and every part thereof to said party of the second part, their successors and assigns, for the uses therein expressed.

That said trust deed was given to secure the first-mortgage bonds on said railroad to the amount of about $350,000.00, exclusive of the interest to accrue thereon at the rate of 6 per cent. per annum, payable half yearly; that by the terms of said trust deed if any installment of interest on said bonds remains unpaid for six months after due, then the entire sum of said bonds mentioned in said trust deed shall become due and payable at once, and upon the election

of a majority of those interested in said bonds the said railroad, and all its lands, depots, grounds, ways, rights of ways, station-
48 houses, machine and all other shops, houses, buildings, tenements, road-beds, tracts, sidings, cars, engines, tenders, rolling-stock, machinery, tools, implements, fuel, fixtures, &c., &c., may all be exposed to public sale in the city of New York on forty days' notice, all of which will more fully appear by reference to a copy of the record of said trust deed, which is filed herewith and marked Exhibit "P," and made a part of this bill.

That said trust deed was filed for record in the recorder's office of Franklin county, Illinois, on the 6th day of February, A. D. 1878. And complainant states that said Belleville & Eldorado Railroad Company deposited with the clerk of the county court of Franklin county, Illinois, after it pretended to have completed said railroad through Franklin county, $150,000 in certificates of stock in said railroad company, which stock is under control of complainants, but which has never been used by them for any purpose, and in consequence of the mortgage upon said railroad as aforesaid,
49 and of the poor quality and character of said railroad, and of other causes, is generally worthless; yet complainants are ready and willing and hereby offer to surrender said stock as a condition precedent to the relief prayed for.

That complainants *is* informed and believes that one James Hill and William H. Nye, who were the contractors to build said road, under the firm name [of] James Hill & Co., hold some of said bonds of said county, and also that one James M. Warren, of the city of Evansville, State of Indiana, holds some of the said bonds of the said county, and also W. Bayard Cutting holds some of said bonds, and that other persons whose names are unknown to the complainant- holds the remainder of said bonds.

That the amount of taxes levied and assessed by the State auditor on the taxable property of said Franklin county for the year A. D. 1879 to pay the interest, &c., on the aforesaid bonds of said county, amounts to the sum of seventeen thousand one hundred and ninety-four dollars and thirty-four cents ($17,194.34).

That W. D. Seeber, sheriff and collector of said county, has collected and paid over to the State treasurer $10,265.76 of said
50 amount so levied and assessed by said auditor, leaving balance in hands of said collector of $6,928.58 collected and to be collected.

The complainant avers and charges the fact to be that all orders and resolutions of the county court of said county or board of supervisors of said county subscribing or attempting to subscribe stock to said railroad company are in conflict with the constitution of the State of Illinois and are void.

That the act of the General Assembly of the State of Illinois entitled an act to incorporate the Belleville and Eldorado Railroad Company, approved February 22d, A. D. 1861, does not authorize any county to subscribe additional stock to said railroad company in addition to the sum limited by the act of the 6th day of November, 1849, nor to the issue interest-bearing bonds or evidence of in-

debtedness bearing interest, and that all the bonds issued under the said first-mentioned act are void.

Complainant further avers and charges that even if there had been any notice of the election for or against subscription claimed to have been held on the 11th day of September, A. D. 1869, or any
51 canvas- of the votes of said election and a majority found to be in favor of subscription, that the subscription made by the county court on the 6th day of November, A. D. 1869, exhausted completely all power of the county under the vote at said election to make subscription, and that all subsequent attempts by the county court or board of supervisors of said county to make other subscriptions containing other conditions, or conditions different from those in the order calling the said election, are null and void.

The complainant avers and charges the fact to be that the State auditor has no right to estimate, levy, or assess any tax or taxes against the taxable property of said county for the purpose of paying the principal or interest of said county bonds, but that he will do so unless restrained by injunction, and that the State treasurer has no right to receive or pay out money for that purpose, but will do so unless restrained by injunction.

That the 13th, 14th, 15th, & 16th section- of the act of the General Assembly of the State of Illinois entitled an act to fund and provide for paying the railroad debts of counties, townships,
52 cities, & towns, approved April 16th, A. D. 1869, is unconstitutional, contrary to public policy, and are void.

The complainant makes the said Belleville and Eldorado Railroad Company, Charles A. Akin, county clerk of Franklin county, Illinois; W. D. Seeber, sheriff and collector of Franklin county, Illinois; Thomas B. Needles, auditor of public accounts of the State of Illinois; J. C. Smith, State treasurer of the State of Illinois; the said W. Bayard Cutting, the said James Hill and William H. Nye, and the said James M. Warren, and the unknown holders of the said bonds of said County party defendant to this bill, and prays that summons may issue for them, and that they be required to answer this bill, but not under oath, their several oaths to their respective answers being hereby expressly waived.

The complainant prays that a writ of injunction may issue restraining and enjoining the said Thomas B. Needles, auditor, and his successor or successors in office, from estimating and determining the rate per centum on the valuation of property within said Franklin county requisite to meet and satisfy the amount of interest due or to become due on said bonds,
53 and that he also be enjoined from making or transmitting to the county clerk of said Franklin county any certificate or certificates stating such estimated requisite for paying the interest on any of said bonds, or for the payment of any of said bonds, or either of them, and that Charles A. Akin, county clerk of said Franklin county, and his successor and successors in office, be enjoined from adding the same, or extending or placing the same on the collector's book or books of said Franklin county, and that the said James Hill, William H. Nye, W. Bayard Cutting, and the said Belleville

and Eldorado Railroad Company, James M. Warren, and the unknown holders of the said bonds of said county, and each of them, be enjoined from sueing said county on any or either of the coupons of said bonds, or on any *on any* or either of them, and that the said J. C. Smith, state treasurer of the State of Illinois, or his successors in office, be enjoined from paying the coupons on said bonds or either of them, or any of said bonds or either of them,
54 and that the said W. D. Seeber, sheriff and collector of said county, and his sucessors in office, be enjoined from collecting any more of the taxes to pay the interest on said bonds and from making any further payment to the State treasurer of the money collected to pay the interest on said bonds, and that upon a final hearing of this cause an order and decree be made and entered decreeing that said election held on the 11th day of September, A. D. 1869, was illegal and void; that the subscription made by said county court on the 6th day of November, A. D. 1869, to the capital stock of said Belleville and Eldorado Railroad Company, and all subscriptions or amendments, modifications, and alterations are void and not binding on said county; that the so-called subscription of $150,000 to the said capital stock, made on the 13th day of December, A. D. 1876, and the attempt made by said county board on the 12th November, 1877, to amend said subscription and to contract for the building of said railroad is unlawful, void, and not binding on the county.

That said bonds, and each and every one of them, by whomsoever held, be declared void, and each and every coupon attached to
55 said bonds, or either of them, be declared void, and that the holders thereof be required to surrender the same for destruction; that the injunction above prayed for be made perpetual, and grant unto the complainant such other and further relief as the facts and circumstances of the case may seem to require and your honor deem meet.

W. J. ALLEN,
THOS. J. LAYMAN,
Solicitors for Complainant.

AT CHAMBERS AT VIENNA, JOHNSON COUNTY, ILLINOIS,
June 26th, 1880.

Motion by comp'ts for a temporary stay order restraining the State treasurer from paying interest due July 1st, 1880, on bonds mentioned in within bill until hearing and order on comp'ts' motion for temporary injunction, as per prayer of bill. Thereupon the said bill of complaint is read and examined, and the arguments
56 and suggestion of counsel are heard on said motion for temporary stay order, and said motion is refused & said stay order denied, and it is ordered that the motion for an injunction, as per bill, be set down for hearing and argument at Mt. Vernon, Illinois, on Thursday. the 8th day of July, 1880. Said motion to be heard and determined at chambers.

DAVID J. BAKER, *Judge.*

Application for injunction made at chambers in Mt. Vernon on 8th day of July, 1880, and bill and exhibits read and examined, and arguments of counsel on motion heard.

And afterwards, on the 19th day of July, 1880, it is ordered that a temporary writ of injunction issue as prayed for in bill.

DAVID J. BAKER,
Judge 1st Circuit.

Filed this 4th day of August, 1880.

R. H. FLANNIGAN, *Cir. Cl'k.*

57 EXHIBIT "A."

SATURDAY, *July* 24, A. D. 1869.

At a special term of the county court, began and held at the court-house in Benton, on Saturday, July the 24th, A. D. 1869—present, Hon. W. E. Smith, county judge; James M. Akin and Isham Harrison, associate justices; C. M. Clark, county clerk, and William B. Denning, sheriff—count opened by proclamation, when the following order was made, to wit:

Be it ordered by the court that, by authority of an act of the General Assembly of the State of Illinois entitled An act to incorporate the Belleville and Eldorado Railroad Company, approved February 22d, A. D. 1861, and an act of the General Assembly, approved November the 6th, A. D. 1849, authorizing counties to take stock in railroad companies, notice is hereby given that on Saturday, the eleventh day of September, A. D. 1869, in the various precincts in the county of Franklin and State of Illinois, at the usual voting places, an election will be held upon the question whether or not the county of Franklin shall subscribe the sum of two hundred thousand dollars ($200,000.00) to the capital stock of the Belleville and
58 Eldorado Railroad Company, payable in county bonds at par, due in twenty years from date, with interest, payable semi-annually, at the rate of eight per cent. per annum, and to be of the denomination of not less than one thousand dollars each, said bonds to be issued upon the following conditions, and not unless they are complied with:

1st. That the said railroad shall be located through Franklin county, running from Duquoin, in Perry county, to the town of Raleigh, in Saline county, within one-quarter of a mile of the court-house in the town of Benton, in said Franklin county, and that a station be there located, and a passenger and freight-house erected within said quarter of a mile of the court-house.

2nd. That said railroad shall be commenced in the county of Franklin within nine months from the date of said election and completed through the county by the 1st day of June, 1872.

3d. That one hundred thousand dollars of said bonds, payable in said stock, shall be delivered to said company when said railroad is in running order to, and a station located at, Benton; and one hundred thousand dollars of said bonds to be delivered when the said

railroad is completed and in running order through said Franklin county.

59 4th. That there be not less than three stations located in the county, one at Benton as aforesaid, one between Benton and Duquoin, and one between Benton and Gallatia.

5th. That said election shall be opened at 8 o'clock in the morning and continue open until 6 o'clock in the afternoon, and shall be conducted by the judges of election appointed for the November election in 1868, if present; if not, judges may be chosen as at other elections.

6th. That persons voting at such election for subscription shall have written or printed on their tickets "For subscription." Those voting againt subscription shall have written or printed on their tickets "Against subscription."

7th. And provided also, That said subscription shall receive a number of votes equal to a majority of all the votes cast in said county at the last general election of county officers.

60 EXHIBIT "B."

SATURDAY, *November 6th, A. D.* 1869.

County court met pursuant to adjournment.

Court opened by proclamation.

Among the proceedings the following were had, to wit:

Whereas in the various precincts in the county of Franklin and State of Illinois, at the usual voting places therein, on Saturday, September the eleventh, A. D. 1869, an election was held in pursuance of an order made at a special term of the Franklin county court, began and held in the court-house in Benton on Saturday, the 24th day of July, A. D. 1869, upon the question whether or not the county of Franklin should subscribe the sum of two hundred thousand dollars to the capital stock of the Belleville and Eldorado Railroad Company, payable in county bonds at par, due twenty years from date, with interest, payable semi-annually, at the rate of eight per cent. per annum, and to be of the denomination of not less than one thousand dollars each;

And whereas at such election the qualified voters of said county did, by a majority of their votes (taking as a standard the number of votes cast for county officers at the last general election previous to the vote had upon the question of subscription as

61 aforesaid) authorize the county court of said Franklin county to subscribe the sum of two hundred thousand dollars to the capital stock of said Belleville & Eldorado Railroad Company: Therefore, at an adjourned term of the Franklin county court, began and held at the court-house in Benton, Friday, November the fifth, A. D. 1869—present, Hon. W. E. Smith, county judge; J. M. Akin & Isham Harrison, associates; C. M. Clark, county clerk, and Wm. B. Denning, sheriff—the following order was entered—that is to say: It is considered and ordered by the court that by authority of the vote at the election aforesaid, held in the county of Franklin on the

eleventh day of September, A. D. 1869, and by authority of an act of the General Assembly of the State of Illinois entitled An act to incorporate the Belleville and Eldorado Railroad Company, approved February 22d, A. D. 1861, and an act of the said General Assembly, approved November the 6th, A. D. 1849, authorizing counties to take stock in railroad companies, that the county of Franklin, in the State of Illinois, does hereby subscribe to the capital stock of the Belleville and EldoradoRailroad Company the sum of one hundred thousand dollars, by virtue of the said act of
62 the General Assembly of the State of Illinois entitled An act to incorporate the Belleville and Eldorado Railroad Company, approved February 22d, A. D. 1861; and the further sum of one hundred thousand dollars, by virtue of an act of the said General Assembly, approved November 6th, A. D. 1849, authorizing counties to take stock in railroad companies, making a total of two hundred thousand dollars hereby subscribed to the capital stock of the Belleville and Eldorado Railroad Company; that said capital stock subscribed as aforesaid be payable in the bonds of the county of Franklin at par, said bonds to be due in twenty years after the date thereof, and to draw interest, payable semi-annually, at the rate of eight per cent. per annum, said bonds to be of the denomination of not less than one thousand dollars each.

It is further ordered and considered by the court that said bonds are to be issued upon the following conditions, and never until they are complied with—that is to say:

1st. That said railroad shall be located through Franklin county, running from Duquoin, in Perry county, to the town of Raleigh, in Saline county, within one-quarter of a mile of the court-house
63 in the town of Benton, in the said Franklin county, and that a station be there located and a passenger and freight-house erected within said quarter of a mile of the said court-house.

2nd. That said railroad shall be commenced in the county of Franklin within nine months from the date of said election, and completed through the county by the first day of June, A. D. 1872.

3d. That one hundred thousand dollars of said bonds, payable on said stock, shall be delivered to said company when said railroad is in running order and the necessary cars running thereon from Duquoin, or El Dorado, to Benton, and a station located at Benton, and one hundred thousand dollars of said bonds to be so delivered when the said railroad is completed and in running order and the nec-ssary rolling stock thereon, through said Franklin county.

4th. That there be not less than three stations located in said county of Franklin, one at Benton, as aforesaid, one between Benton and Duquoin, and one between Benton & Gallatia.

5th. That at the time said bonds are issued and stock received said railroad, its fixtures, and rolling stock are not — be mort-
64 taged for more than the actual cash value of the same, and that there be no mortgage or lien upon the same under which said road, its fixtures, or rolling-stock can or may be exposed to sale within a shorter time than twenty-five years from the date of such mortgage or lien.

EXHIBIT "C."

MONDAY, *February 6th, A. D.* 1871.

At a special meeting of the county court began and held at the court-house in Benton on Monday, February 6, 1871:

Present: Hon. D. M. Browning, county judge; J. M. Akin & Gilbert G. Sweetin, associate justices; C. M. Clark, Co. clerk; Carroll Moore, sh'ff.

Court opened by proclamation.

Whereas, by an order of this court made the 6th day of November, A. D. 1869, a subscription of two hundred thousand dollars was ordered to be made to the Belleville and Eldorado Railroad Company, and whereas said subscription required that the said railroad should be commenced in the county of Franklin within nine months from the date of the election authorizing said subscription to
65 be made, to wit, on the 11th day of June, A. D. 1870, and completed through said county by the first day of June, A. D. 1872, and whereas the time for commencing building of the said railroad has expired: It is therefore ordered that the time for commencing and completing the said railroad be extended, and that the said subscription be made on the stock books of the Belleville and Eldorado Railroad Company upon the following terms and conditions, and not until they are fully complied with, to wit: That said two hundred thousand dollars subscribed to said capital stock as aforesaid be payable in the bonds of the county of Franklin at par, said bonds to be due in twenty years from the date thereof, and to draw interest, payable semi-annually, at the rate of eight per cent. per annum, said bonds to be of the denomination of not less than one thousand dollars each; that said railroad shall be located through Franklin county, running from Duquoin, in Perry county, to the town of Raleigh, in Saline county, within one-quarter of a mile of the court-house in the town of Benton, in the said Franklin county, and that a station be there located, and a passenger and freight house be erected within the said quarter of a mile of the said court-house.
66 That said railroad shall be commenced in the county of Franklin on or before the first day of January, A. D. 1879, and completed through the county by the first day of January, A. D. 1874; that one hundred thousand dollars of said bonds, payable on said stock, shall be delivered to said company when said railroad is in running order and the necessary cars propelled by steam running thereon from Duquoin or El Dorado to Benton, as aforesaid, and a station located at Benton; and one hundred thousand dollars of said bonds to be so delivered when the said railroad is completed and in running order and the necessary rolling-stock thereon through said Franklin county; that there be not less than three stations located in the said Frankin county, one at Benton, as aforesaid; one between Benton and Duquoin, and one between Benton and Gallatia.

Ordered, That court be now adjourned until court in ——.

D. M. BROWNING, *Judge.*
JAMES M. AKIN, *Associate.*
GILBERT G. SWEETIN,
Associate.

67 EXHIBIT "D."

THURSDAY, *March 9th*, 1871.

Court met, pursuant to adjournment.

Present: Same as yesterday.

Whereas at an election held in Franklin county, in the State of Illinois, in strict accordance with law, on the eleventh day of September, A. D. 1869, upon a proposition for Franklin county to subscribe two hundred thousand dollars to the capital stock of the Belleville and Eldorado Railroad Company, a majority of the legal voters of the county voted for the said subscription: Now, therefore, the county of Franklin, of the State of Illinois, acting by the county judge and the associate judges of the Franklin county court, and attested by the official seal of said Franklin county, doth hereby subscribe the sum of two hundred thousand dollars for two thousand shares of the capital stock of the Belleville and Eldorado Railroad Company, said shares to be of the amount of one hundred dollars each. Said stock is to be subscribed and the bonds to be issued upon the following conditions, and not until they are fully complied with (to wit): Said stock is to be paid in Franklin county bonds at par, the bonds to be payable in twenty years after date, with interest at eight per cent. per
68 annum, payable semi-annually, in New York, the bonds to be of the denomination of one thousand dollars each, with coupons for the interest attached thereto; the said county bonds to be delivered to said company as follows: one hundred thousand dollars of said bonds to be delivered when the section of railroad extending from the eastern boundary of Franklin county to Benton is completed in good running order and a train of cars, propelled by steam, shall have run over the same, and one hundred thousand dollars of said bonds to be delivered when the section of said railroad extending from Benton to the other county of Franklin county is completed and a train of cars, propelled by steam, shall have run over the same, it being left optional with the company which section of the railroad it will build first; and the bonds of the county, due on either section of the road, shall be delivered to said company when that section is completed and the cars shall have run over it to Benton, as aforesaid, and said county bonds shall be valid and binding on the county from and after the delivery thereof to said company, and the faith of Franklin county is hereby pledged
69 for the payment of the bonds issued to said Belleville and Eldorado Company, the said railroad to be commenced within the county in one year and completed through the county within three years from the date of this subscription.

It is further provided that [said] railroad company shall erect a passenger and freight depot on said road at Benton, within one-quarter of a mile of the present court-house, and at least one other freight and passenger depot on said road between Benton and each of the county lines in said Franklin county through which the road shall run. It is further provided that this subscription and those

previously made shall not be construed as intending to subscribe more than two hundred thousand dollars to said Belleville and Eldorado Railroad Company, or to any company or companies that may build railroads within said county.

Witness the signature of the judges of the county court of Franklin county, Illinois, and the seal of said court, this 9th day of March, A. D 1871.

[SEAL.]

DANIEL M. BROWNING,
County Judge.
JAMES M. AKIN,
Associate Judge.
GILBERT G. SWEETIN,
Associate Judge.

70 EXHIBIT "E."

Supervisors' Meeting.

Dec. Term.

DECEMBER 13TH, 1876.

Court met pursuant to adjournment and opened by proclamation.

Present: James M. Bayfield, chairman; William Flatt, Silas P. Kirkpatrick, Lemuel Day, Carroll Moore, J. W. Williams, M. C. Ingram, M. B. Tyrell, & J. M. Wier, members; James M. Akin, sheriff.

Attest:

EVAN FITZGERRELL, *Co. Clerk.*

Among other proceedings the following were had, to wit:

On motion the following order was adopted, to wit:

Whereas in the various precincts of the county of Franklin and State of Illinois, at the usual voting places therein, on Saturday, September the 11th, A. D. 1869, an election was held in pursuance of an order made at a special term of the county court of Franklin county, began and held at the court-house, in Benton, on Saturday, the 24th day of July, A. D. 1869, upon the question whether or not the county of Franklin should subscribe the sum of two hundred thousand dollars to the capital stock of the Belleville and Eldorado Railroad Company, payable in county bonds at par, due twenty years from date, with the privilege of paying after five years, with
71 interest payable semi-annually, at the rate of eight per cent. per annum, and to be of the denomination of not less than one thousand dollars each; and whereas at such election the qualified voters of said county did, by a majority of the votes (taking as a standard the number of votes cast for county officials at the last general election previous to the vote had upon the question of subscription as aforesaid), authorize the county court of said Franklin county, to subscribe the sum of two hundred thousand dollars to the capital stock of said Belleville and Eldorado Railroad Company: Therefore at a regular meeting of the board of supervisors of Franklin county, began and held at the court-house, in the town of Benton, in the county of Franklin and State of Illinois, on Wednesday, the 13th day of December, A. D. 1876—

Present: James M. Brayfield, chairman; Wm. Flatt, S. P. Kirkpatrick, L. Day, C. Moore, M. C. Ingram, M. B. Tyrell, J. M. Wier, and J. W. Williams, members of the board of supervisors; with Evan Fitzgerrell, county clerk, and James M. Akin, sheriff; the following order was entered—that is to say:

It is considered and ordered by the board of supervisors of
72 said county, by the authority of the vote heretofore mentioned, and the authority of an act of the General Assembly of the State of Illinois, entitled An act to encorporate the Belleville and Eldorado Railroad Company, approved February 22d, A. D. 1861, and an act of the said General Assembly, approved November 6th, A. D. 1849, authorizing counties to take stock in railroad companies.

That the county of Franklin, in the State of Illinois, does hereby subscribe to the capital stock of the Belleville and Eldorado Company the sum of one hundred and fifty thousand dollars, being seventy-five thousand dollars by virtue of each of the acts of the General Assembly herein mentioned.

That said capital stock, so subscribed as aforesaid, be payable in the bonds of Franklin county aforesaid at par, said bonds to be due in twenty years, and may be paid after the expiration of five years from their date, at the option of the county; said bonds as aforesaid to draw interest at the rate of eight per cent. per annum, interest payable semi-annually, and to be of the denomination of not less than one thousand dollars each. It is further ordered by the board of supervisors that the said bonds be issued and placed in the
73 hands of a trustee, to be paid out upon the following conditions:

First. That said railroad shall be located through Franklin county, running from the junction of said road near the west line of Saline county, Illinois, to Duquoin, Perry county, Illinois, and within one-fourth of a mile of the court-house, in the town of Benton, in said Franklin county, and that a station be there located, and a passenger and freight depot be there erected within said one-fourth of a mile of said court-house.

Second. That said railroad shall be commenced within thirty days from the date of this order, and completed by the 15th day of October, A. D. 1877.

Third. That seventy-five thousand dollars of said bonds be applied to the building of the road from said junction in Saline county, and that seventy-five thousand dollars be applied to the building of the road from Benton to Duquoin, to be delivered and paid to the contractors as each mile of the road is completed, under the contract, in proportion to the whole number of miles in each division built, and provided that the contract of building is to include the build-
74 ing of the whole road from Saline county to Duquoin.

Fourth. That there be not less than three stations located in said county of Franklin; one at Benton, as aforesaid, one between Benton and Duquoin, and one between Benton and the Saline county line.

EXHIBIT "F."

NOVEMBER 12TH, A. D. 1877.

On this day the board of supervisors of Franklin county met at the court-house, at Brenton, in said county.

Present: John J. St. Clair, chairman; L. Day, James K. Marison, James M. Brayfield, Joseph M. Weir, S. P. Kirkpatrick, L. D. Walker, and Jesse Taylor.

Attest: EVAN FITZGERRELD, *Co. Clerk.*
J. M. AKIN, *Sheriff.*

Among other proceedings, the following were had, to wit:

It is therefore considered and ordered by the board of supervisors of Franklin county, in the State of Illinois, that the order of said board, made on the 13th day of December, A. D. 1876, subscribing $150,000.00 to the capital stock of the Belleville and Eldorado
75 Railroad Company, be, and the same is hereby, amended as follows, to wit: That said order subscribing said stock read as follows, to wit: That the county of Franklin, in the State of Illinois, under the provisions of an act of General Assembly of the State of Illinois, entitled An act to incorporate the Belleville and Eldorado Railroad Company, approved February 22d, A. D. 1861, authorizing subscription to the capital stock of said railroad, and in accordance with the majority of votes cast at an election held in said Franklin county, in conformity with said act, on the 11th day of September, A. D. 1869, does hereby subscribe the sum of one hundred thousand dollars to the capital stock of the Belleville and Eldorado Railroad Company, payable in bonds of said Franklin county at par, said bonds to be due twenty years after the date thereof, and payable at the option of said Franklin county after five years, said bonds to bear interest from date, at the rate of eight per cent. per annum, payable semi-annually, said bonds to be of the denomination of one thousand dollars each; and that the county of Franklin, in the State of Illinois, under the provisions of an act of the General Assembly of the State of Illinois, entitled An act to authorize cities and
76 counties to subscribe stock to the railroad, approved November 6th, 1849, and under authority, as evidenced, by a majority of the qualified voters of said Franklin county, at an election held in said county in conformity with the provisions of said act on 11th day of September, A. D. 1869, does hereby subscribe the sum of fifty thousand dollars to the capital stock of the Belleville and Eldorado Railroad Company, payable in bonds of said Franklin county, at par; said bonds to be due twenty years after the date thereof, and payable at the option of said Franklin county after five years; said bonds to bear interest from date at the rate of eight per cent. per annum, payable semi-annually; said bonds to be of the denomination of one thousand dollars each.

It is, therefore, considered and ordered by the board of supervisors of Franklin county, in the State of Illinois, that the chairman of the board of supervisors of said Franklin county and the clerk thereof

are hereby ordered and directed to execute bonds of said Franklin county in payment of said amended subscription to the capital stock of the Belleville and Eldorado Railroad Company as follows, to wit:

77 That said chairman and said clerk execute one hundred bonds of said Franklin county of the denomination of one thousand dollars each, payable to the Belleville and Eldorado Railroad Company, or bearer, twenty years after the date thereof, and payable at any time after five years and before said bonds become due, at the option of said Franklin county, with interest thereon from the date thereof at the rate of eight per centum per annum, payable semi-annually on the 1st of January and July of each year. Said bonds and the interest thereon to be made payable in the city and State of New York, at the place where the treasurer of the State of Illinois pays the interest and debt of said State. Said bonds to be executed in conformity with and under the provisions of an act of the General Assembly of the State of Illinois entitled An act to incorporate the Belleville and Eldorado Railroad Company, approved February 22, A. D. 1861, authorizing subscriptions to the capital stock of said railroad company, and in accordance with the majority of votes cast at an election held in said county, in conformity with the provisions of said act, on the 11th day of September A. D. 1869.

78 It is further ordered by said board of supervisors of said Franklin county, that the chairman of said board of supervisors, and the clerk, are hereby ordered and directed to execute bonds of said Franklin county in payment of said amended subscription to the capital stock of the Belleville and Eldorado Railroad Company as follows, to wit:

That said chairman and said — execute fifty bonds of said Franklin county, of the denomination of one thousand dollars each, payable to the Belleville and Eldorado Railroad Company, or bearer, twenty years after the date thereof, and payable at any time after five years and before said bonds become due, at the option of said Franklin county, with interest thereon from the date thereof at the rate of eight per centum per annum, payable semi-annually on the 1st day of January and July of each year, said bonds, and the interest thereon, to be made payable in the city and State of New York, at the place where the treasurer of the State of Illinois pays the interest and debt of said State. Said bonds to be executed in conformity with and under the provisions of an act of the General Assembly of the State of Illinois entitled An act to authorize

79 cities and counties to subscribe stock to railroad-, approved November 6th, A. D. 1849, and as authorized by a majority of the qualified [voters] held in said county, in accordance with the provisions of said act, on the 11th day of September, A. D. 1869.

It is further ordered by the board of supervisors of said Franklin county that the clerk of said board make a record of said bonds, and coupons thereto attached, as required by law.

It is further considered and ordered by the board of supervisors that John J. St. Clair, chairman, and Joseph M. Weir, member, of said board, are hereby appointed commissioners in behalf of said

Franklin county, and said commissioners are hereby ordered and directed to safely convey said bonds above described, when executed, to the city of Evansville and deposit the same with the Evansville National Bank, trustee as aforesaid, and take receipt therefor; said commissioners are further ordered and directed to receive from said trustee, in exchange for said bonds so deposited by them, the aforementioned 150 bonds of said Franklin county, executed, as
80 aforesaid, on the 22d day of December, A. D. 1876, and deliver the same to the said board of supervisors, or its committee appointed to cancel and destroy the same.

It is further ordered by the board of supervisors of said Franklin county that said Evansville National Bank, trustee as aforesaid, receive said bonds to be executed, pursuant to the order of said board of supervisors at the special November term, A. D. 1877, and that said trustee hold said bonds and deliver the same to said railroad company only on the same conditions, and under the same restrictions, as specified in the order of said board of supervisors, made, as aforesaid, on the 13th day of December, A. D. 1876.

EXHIBIT "G."

Resolved by the board of supervisors of Franklin county, That we hereby extend to the board of directors of the Belleville and Eldorado Railroad Company further time for the building of said railroad—until the 15th day of Sept., 1878.

March 5th, 1878.

J. M. WEIR.

Motion and second that the above resolution be amended
81 so as to read 1st day of May instead of 15th day of Sept., 1878; vote on the adoption of the amendment stood—

Yeas—Brayfield, Taylor, Williams, Kirkpatrick.

Nays—Weir, Walker, Day, Manion, & St. Clair.

Vote on the adoption of the resolution extending the time to the board of directors for the construction of the Belleville & Eldorado railroad stood—

Yeas—Weir, Walker, Day, Manion, & St. Clair.

Nays—Brayfield, Taylor, Williams, Kirkpatrick.

EXHIBIT "H."

MONDAY, *July 22d*, 1878.

The board of supervisors of Franklin county, Illinois, met in Benton on Monday, July 22nd, 1878.

Present: James M. Brayfield, chairman; Isham Harrison, Silas P. Kirkpatrick, Thomas Neal, John J. St. Clair, John W. Williams, Jesse Taylor, James K. Manion, & C. C. Biggs, members.

Attest: CHAS. A. AKIN, *Co. Clerk.*
JAMES M. AKIN, *Sheriff.*

82 Court opened by proclamation, when the following proceedings, among other things, were had, to wit:

On motion of Isham Harrison, the following resolutions were adopted by the board:

Whereas one hundred and fifty of the railroad bonds of Franklin county, as bonds of this county which were designed to be paid upon certain conditions to the Belleville & Eldorado Railroad Company for stock, for the sum of one thousand dollars each, were deposited with the Evansville National Bank, Evansville, Indiana, as trustee, by the supervisors of said county, under and by virtue of an order of said board of supervisors made at the November special meeting thereof, A. D. 1877; and whereas there is doubt of the legality of placing said bonds out of the immediate custody and possession of this board: Therefore it is ordered by the said board of supervisors of said county that Chas. A. Akin, county clerk of said county, be, and he is hereby, appointed agent and commissioner for and on behalf of said county, to proceed to Evansville, Indiana, at once, and for and on behalf of Franklin county demand and receive
83 said bonds from said bank, and receipt for the same, and pay said bank all reasonable charges for keeping said bonds, and that said Charles A. Akin keep and retain the possession of the said bonds for and on behalf of this board of supervisors until otherwise directed by this board, or the successors thereof, and that said Chas. A. Akin report to this board, at its next meeting, of his acts and doings under this order.

Dated this 22nd day of July, A. D. 1878.

ISHAM HARRISON, *Mover.*

And now comes Isham Harrison and presents the following resolution, which was adopted by the board, as follows:

EXHIBIT "I."

STATE OF ILLINOIS, } ss:
Franklin County, }

To the chairman and board of supervisors of Franklin county, Illinois:

Resolved, That we request Judge D. M. Browning to make a report to this court as to the amount of Franklin county bonds he has signed as agent on behalf of Franklin county to the
84 Belleville and Eldorado Railroad Company or the contractors of said railroad, report to contain the numbers of the several bonds, and under what act issued; also to show the amount of stock by certificates that has been given by said railroad company, and to make report to this board at one o'clock p. m. of this day.

Dated this Sep. 16, A. D. 1878.

Now comes D. M. Browning, county judge, and makes the following report, to wit:

EXHIBIT "J."

STATE OF ILLINOIS, } ss:
Franklin County, }

To the board of supervisors of Franklin county, Illinois:

The undersigned, county judge of Franklin county, Illinois, would respectfully report in accordance with your resolution of this day that under the contract made by your board subscribing stock to the Belleville and Eldorado Railroad Company, I have given order to James Hill & Co. for the Franklin county bonds as each mile of rail-
85 road was built from Saline county, Illinois, to Benton, and under said orders James Hill & Co. have drawn from the Evansville National Bank, as trustee, $75,000 in Franklin county bonds, being bonds from No. 1 to 75 inclusive, issued under act of Febru-22nd, A. D. 1861, incorporating the Belleville and Eldorado Company. The Evansville National Bank, as trustee, holds, subject to the order of the board of supervisors of this county, $75,000.00 in certificates of stock, issued by said railroad company to Franklin county, Illinois. There has been one-half of the stock certificates deposited under the subscription made by your honorable body.

Respectfully submitted,

D. M. BROWNING.

Sept. 16th, 1878.

And now comes James Hill & Company and submit a proposition asking for an extension of the time for completing the Belleville and Eldorado railroad as follows, to wit:

EXHIBIT "K."

STATE OF ILLINOIS, } ss:
Franklin County, }

To the honorable board of supervisors of Franklin county, Illinois:

86 The Belleville and Eldorado Railroad Company respectfully represents unto your honorable body that in pursuance to the contract heretofore made with this honorable board James Hill & Co., the contractors for the construction of said railroad from the east line of said county to Duquoin, in Perry county, Illinois, have completed said railroad to the main street leading south from the court-house in Benton and within one-fourth of a mile of said court-house, and that trains of cars have been propelled over said road by steam; that the time allowed by the order of your honorable [body] for the completion of said railroad expired on the 15th instant; that no further extension of said road can be made without the friendly co-operation of your honorable body in extending the time to said company and contractors for the completion of said road. Said company feel warranted in stating that if a reasonable time be fixed upon by your honorable body that work will at once progress on said road; but, owing to the fact that the winter season is rapidly approaching, in which the work may be necessarily delayed in con-

sequence of unfavorable weather, the said company feel con-
87 strained to ask for an extension of one year from this date.
If, however, your honorable body should feel disinclined to act in the premises at this time so as to insure the success of the enterprise, your petitioners respectfully ask that you adjourn without action for such time as will enable each of your honorable body to consult his constituents on the subject of an extension of time.

F. M YOUNGBLOOD,
Solicitor for Belleville and Eldorado Railroad Company.

The following resolution was presented by Isham Harrison and adopted by the board, to wit:

EXHIBIT "L."

STATE OF ILLINOIS, } ss:
Franklin County, }

To the chairman and getlemen of the board of supervisors of Franklin county, Illinois:

Whereas there are one hundred and fifty bonds of the denomination of one thousand dollars each issued in aid of the Belleville and Eldorado Railroad Company for the construction of a railroad
through the county of Franklin and State of Illinois, at the
88 special November term, A. D. 1876, with the express understanding that said road was to be completed through the said county to Duquoin, in Perry county, Illinois, by the 15th day of March, 1878; and whereas said railroad company failed upon their part to complete said road according to the contract above mentioned; and whereas the county board of said county did, at the March term, A. D. 1878, extend the time for the completion of said road to the said company until the 15th day of September, A. D. 1878; and whereas the said railroad company again failed to complete said road according to the contract last above mentioned:

Therefore be it resolved by the county board of said Franklin County, at special meeting held for county business, on the 16th day of September, A. D. 1878, That we do hereby declare the said contract at an end, and that we do authorize and request the First National Bank of Evansville, Indiana, to transmit by express to Duquoin, Illinois, all the bonds and certificates of stock in said railroad that may be in possession of said bank to Chas. A. Akin, who is commissioner and agent on behalf of the people of said Franklin County; and the said Chas. A. Akin is hereby authorized to receipt
89 for the same and pay all reasonable charges, and safely keep said bonds for the further action of the said county board.

EXHIBIT "M."

The board of supervisors of Franklin County, Illinois, met in Benton on Monday, October the 21st, A. D. 1878.

Present: James M. Brayfield, chairman; Isham Harrison, Silas

P. Kirkpatrick, Thomas Neal, John J. St. Clair, John W. Williams, Jesse Taylor, James K. Manion, & C. C. Biggs.

Attest: CHAS. A. AKIN, *Co. Clerk.*
JAMES M. AKIN, *Sheriff.*

Court opened by proclamation, when, among others, the following proceedings were had, to wit:

Resolved by the board of supervisors of Franklin county, in special meeting assembled, That the time for the completion of the said Belleville and Eldorado railroad from Benton to Duquoin be extended to said company and contractors until the first day of November, A. D. 1879; and be it further ordered by said board of supervisors that said Evansville National Bank as aforesaid be, and it is hereby, ordered to pay over to said railroad company the bonds of said company now in its hands as soon as the railroad is completed to Duquoin, as provided in said original contract.

JOHN J. ST. CLAIR, *Mover.*

90 And now comes Samuel F. Benton, a member of this board who offers the following resolution, which is adopted and ordered of record, as follows:

Resolved by the board of supervisors of Franklin county, That the suit now pending in the circuit court of Franklin county, in which the county of Franklin is complainant, and the Belleville and Eldorado Railroad Company and others are defendants, it being a bill in chancery to enjoin the delivery of the bonds of said county, now in the hands of the Evansville National Bank, as trustee, to the Belleville and Eldorado Railroad Company, under its contract with said county, as said railroad shall be completed to Duquoin, be dismissed and discontinued, and that said bonds be delivered in strict compliance with the original contract made with the said county and the said railroad company and the contractors.

And be it further resolved by the board of supervisors, That John J. St. Clair hereafter, as said railroad progresses from Benton to Duqoin, examine and receive said road under said contract as therein provided for the county judge of said county to do, and give orders to the trustee for said bonds, and that the
91 trustee hereafter deliver said bonds on the order of the said John J. St. Clair, showing that said railroad has been completed as provided in said contract.

And be it further resolved, That on the delivery of said bonds, or any part thereof, on the order of the said John J. St. Clair, the chairman of this board is hereby directed to attach his certificate registration to each of said bonds.

And be it further resolved, That all resolutions of this board heretofore passed on this subject inconsistent herewith be, and the same are hereby, repealed and revoked.

And it is further resolved, That F. M. Youngblood be, and is hereby, authorized and empowered to take such legal steps as may

be necessay to have said suit above mentioned dismissed and discontinued.

S. F. BUNTIN, *Mover.*

EXHIBIT "N."

By request the yeas and nays are called for on adoption of the above resolution, which showed the following vote:

Yeas—John J. St. Clair, Joseph Hammons, S. F. Buntin, John G. Bowling.

Nays—Jesse Taylor, J. W. Williams, J. M. Darr, James Martin.

There being a tie vote the chairman voted in the affirmative.

92 STATE OF ILLINOIS, } *ss:*
Franklin County, }

I, Chas. A. Akin, clerk of the county court in and for the county of Franklin and State of Illinois, do hereby certify that the forego ing exhibits, from "A" to "N," inclusive, pertaining to the subscription of stock by the county of Franklin to the Belleville and Eldorado Railroad Company, are true and perfect copies of the orders of the county court and the board of supervisors of Franklin county, Illinois, relative to said subject, as the same remain of record now in my office.

In testimony whereof I have hereunto signed my name and affixed the seal of said court this 17th day of June, A. D. 1880.

[SEAL.] CHAS. A. AKIN,
County Clerk.

Indorsed: Filed Aug. 4th, 1880. R. H. Flannigan, cir. cl'k.

93 UNITED STATES OF AMERICA, *State of Illinois:*

Copy of Bond.

No. 50. $1,000.

Franklin County Eight Per Cent. Railroad Bond.

Know all men be these presents that the county of Franklin, in the State of Illinois, acknowledges itself to be indebted to the Belleville and Eldorado Railroad Company, or bearer, in the sum of one thousand dollars, which sum the said county, for value received, promises to pay said company or bearer in the city and State of New York twenty years after date, payable at any time after five years, and before this bond becomes due, at the option of said county of Franklin, with interest thereon from and after the 15th day of November, A. D. 1877, at the rate of eight per cent. per annum, payable semi-annually, on the first day of January and July of each year, on the presentation and surrender, at the place in the said city of New York where the treasurer of the State of Illinois pays the interest and debt of said State, of the coupons hereto attached, as they severally become due. This bond is one of a series of fifty of
94 like tenor for the sum of one thousand dollars each, numbered from one to fifty, inclusive, issued under the provisions of an

act of the General Assembly of the State of Illinois, entitled "An act to authorize cities and counties to subscribe stock to railroads," approved November 6th, A. D. 1849, and authorized by a majority of the qualified voters of said county of Franklin, at an election held in said county on the 11th day of September, A. D. 1869, in accordance with the provisions of said act.

In testimony whereof the said county of Franklin has executed this bond, by the chairman of the board of supervisors, under the order of the board of supervisors of said county, signing his name hereto, and by the clerk of said board, under the order thereof, attesting the same and affixing hereto the seal of said county.

This done, at the office of the clerk of said board, this 13th day of November, A. D. 1877.

JOHN J. ST. CLAIR,
Chairman of the Board of Supervisors of Franklin County, Illinois.

[SEAL.] EVAN FITZGERRELL,
Clerk of the Board of Supervisors, Franklin County, Illinois.

[Across the face in red ink :] $1,000.

95 *B. E. Railroad Mortgage.*

This indenture, made this 31st day of October, A. D. 1877, between the Belleville and Eldorado Railroad Company, a corporation created by the State of Illinois, party of the first part, and The Farmers' Loan and Trust Company, of the city and State of New York, party of the second part, witnesseth :

That whereas the party of the first part is the owner, and now in the actual possession and control, of said line of railroad now being constructed by said party of the first part;

And whereas said party of the first part is authorized by law to borrow any sum or sums of money which may be necessary for the purpose of building, completing, equipping, operating, and maintaining its railroad, and to mortgage or convey by deed of trust its corporate property and franchises which it may now have, or may hereafter acquire, to secure the payment of any debt contracted by the party of the first part;

And whereas the said party of the first part have, by a resolution of the board of directors, duly authorized its president and secretary to execute, in the corporate name of the company, and issue bonds, to be designated first-mortgage bonds, series A, to be secured by a deed of trust on the
96 whole line of its railroad (except fifteen miles hereinafter described), in the form hereinafter set forth, to aid in securing the necessary means to build, complete, equip, maintain, and operate said railroad to the amount of ten thousand dollars per mile on each and every mile except the fifteen miles above mentioned, not exceeding in the aggregate the sum of three hundred and fifty thousand dollars, three hundred of which bonds to be of the denomination of one thousand dollars each, and numbered consecutively from one (1) to three hundred (300), inclusive, and one hundred of which

shall be of the denomination of five hundred dollars each, and numbered consecutively from three hundred and one (301) to four hundred, inclusive, and that shall be payable to the Farmers' Loan and Trust Company of the city and State of New York on the first day of January, A. D. nineteen hundred and eight, in gold coin of the United States, with interest thereon at the rate of six per centum per annum, payable semi-annually in gold at the office of the said Farmers' Loan and Trust Company in the city of New York, or such place in the city of New York as said company may appoint
97 and give in ten days' notice of by publication in some newspaper of that city on the first day of July and January of each and every year ensuing the date of said bonds, interest commencing January first, A. D. 1878. All of said bonds shall be deemed equally secured by this indenture without preference of one over another, notwithstanding the same may be issued at different times, and they shall be authenticated by a certificate signed by the party of the second part in the trust hereby created, viz:

Form of Bond.

UNITED STATES OF AMERICA, *State of Illinois:*

$1,000. No. —. Series A. $1,000.

Interest at six per cent. in gold coin, payable semi-annually.

The Belleville and Eldorado Railroad Company. First mortgage bond.

Know all men by these presents, That the Belleville and Eldorado Railroad Company, a corporation created by the State of Illinois, and duly organized under the laws of said State, is indebted to the Farmers' Loan and Trust Company of the city and State of New York in the sum of one thousand dollars in gold coin of the United States,
98 which the said company promises to pay to the said Farmers' Loan and Trust Company, or the registered holder hereof, or, if not registered, to the bearer, on the first day of January, A. D. 1908, together with interest from and after January first, eighteen hundred and seventy-eight, at the rate of six per cent. per annum, in gold, at the office of the Farmers' Loan and Trust Company, of the city of New York, or at such place in the city of New York as said company may appoint and give ten days' notice of by publication in some newspaper of that city, on the first day of July and January of each year on the presentation and surrender of the annexed interest coupon- as they severally become due, as herein provided. This bond is one of a series marked A, limited to ten thousand dollars per mile upon all of said company's railroad extending from El Dorado, in Saline county, Illinois, via Raleigh, Galatea, and Benton, to Duquoin, in Perry county, Illinois, and all of even date herewith, secured by deed of trust of said railroad company to the Farmers' Loan and Trust Company, of the city of New York, and

conveying to said trustee all the railroad, rolling-stock, fran-
99 chises, and property now owned by said company or hereafter acquired by it, excepting fifteen miles of said railroad commencing at El Dorado, in Saline county, Illinois, and extending westward fifteen miles in said Saline county, Illinois. It is hereby expressly agreed by the said railroad company with the holders of this bond that in case of non-payment of any interest coupon hereto attached, if said default shall continue for six months after maturity and demand of payment, then and in that case the principal of this bond shall become due, and shall be paid in the manner provided in the deed of trust, and the company hereby expressly waives the benefit of every extension, stay, or appraisement law which has been or may hereafter be enacted. This bond shall pass by delivery or transfer on the books of the company in the city of New York, or at such other places as said company may hereafter appoint, after a registration of ownership certified hereon by the treasurer of the company or its transfer agent. No transfer, except on the books of the company, shall be valid unless the last transfer be to bearer,
100 which shall restore transferability by delivery, and it shall continue subject to successive registration and transfer to bearer as aforesaid at the option of the holder. This bond shall not be valid unless the certificate endorsed hereon is signed by the trustee.

In testimony whereof the said company have caused their corporate seal to be hereto affixed and these presents to be signed by their president and countersigned by their secretary on this — day of ——, A. D. one thousand eight hundred and seventy-seven.

Form of Coupon.

$30. $30

On the first day of July, 1878, the Belleville and Eldorado Railroad Company will pay at the office of the Farmers' Loan and Trust Company, in the city of New York, or at such a place in the city of New York as said company may appoint, and give ten days' notice of by publication in some newspaper of that city, on the surrender of this coupon to bearer, or, if registered, to the registered holder thereof, on order, the sum of thirty dollars in gold, being six months due that day on bond No. —, series A, No. —.

—— ——, *Treasurer.*

Trustees' Certificate.

101 The undersigned, president of the Farmers' Loan and Trust, Company of the city of New York, hereby certifies that this is one of the bonds issued under the within-mentioned deed of trust, and that said deed of trust has been duly recorded in each of the counties in the State of Illinois in which said railroad is located.

—— ——, *President.*

The other denomination of bond of this series mentioned above together with the coupons and trustees' certificate, is in form the same

as above in every particular, except as to amount, which in the bond is five hundred dollars and in the coupon fifteen dollars. And whereas said board of directors have passed a resolution in due form authorizing the president and secretary of said railroad company to execute in their corporate name, and to affix thereto their corporate seal, a deed of trust to the Farmers' Loan and Trust Company of the city and State of New York, as trustee to secure the payment of the principal and interest of said bonds:

Now, therefore, this indenture witnesseth, further, that the Belleville and Eldorado Railroad Company in order to secure the payment of said bonds and interest, and in consideration of one
102 dollar to them at the time of sealing and delivery hereof in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, have granted, bargained, sold, transferred, and conveyed, and by these presents do hereby grant, bargain, sell, transfer, and convey, to the said party of the second part, their successors and assigns in the trust hereby created, the said line of railroad of the party of the first part, commencing at El Dorado, in Saline county, Illinois, and running thence westerly to Raleigh and Galatea, in said Saline county, thence to Benton, in Franklin county, and thence to Duquoin, in Perry county, State of Illinois, with the lands, depot grounds, ways, rights of way, station-houses, machine and all other shops and houses and buildings, structures, and road-beds, tracks, sidings, cars, engines, tenders, rolling-stocks, and machinery, tools, implements, fuel, material, and property, both real and personal, and all rights, credits, income, earnings, profits, choses in action, and franchises of the party of the first part connected with or appertaining to said line of railroad, intending hereby to
103 include all the property now belonging to or which may hereafter be acquired by the party of the first part as connected with or appertaining to said line of railroad now constructed or to be constructed, equipped, and operated, and all rights, privileges, and appurtenances thereunto belonging, to have and to hold the same and every part thereof to the said party of the second part, their successors and assigns, for the uses and purposes herein expressed, excepting and excluding, how-er, from this deed of trust so much of said railroad as has been heretofore mortgaged by said party of the first part, viz., fifteen miles, lying and being in Saline county, of Illinois, commencing at El Dorado, in said county of Saline, thence westward a distance of fifteen miles.

Article 1st. Until default shall have been made by the party of the first part in the performance of all and singular the covenants and agreements of this indenture, and of the bonds herein mentioned, said party of the first part shall be permitted to have and retain the exclusive control, possession, and enjoyment of the premises hereby conveyed in the same manner and with the same
104 effect as if said indenture had not been made.

Article 2. In case of default in the payment of the principal or interest of said bonds, or any part thereof, when the same shall have become due, according to the tenor and effect of said bonds, and of the coupons attached thereto, or in any of the requirements to be

done or kept by the party of the first part, it shall be lawful for the party of the second part, their successors or assigns, after six months from such default, and upon a request of a majority in interest of the holders of said bonds, personally or by their agents, to take possession of and manage said railroad and property, and receive the income therefrom, and, after defraying all the expenses of the road and of its needful completion, repairs, and all payments for taxes, together with a just compensation for their services, to apply the surplus of money so received to the payment of said bonds and the interest thereon ratably and without discrimination or preference; or the said party of the second part, and their successors or assigns in the trust, are hereby authorized and required, upon a written
105 request of a majority in interest of the holders of said bonds, after such six months' default, to cause said premises to be sold at public auction in the city of New York, giving at least forty days' notice of the time and place and terms of such sale, and of the specific property to be sold, by publishing the same in two newspapers published in said city, and one newspaper published in each of the counties in said State through which said road is located, and to execute to the purchaser or purchasers thereof a good and sufficient deed of conveyance in fee-simple for the same, which sale and conveyance shall be a perpetual bar against the party of the first part, their successors or assigns, and all persons claiming under them, of all right, interest, or claim, whether legal or equitable, in or to said premises, or any part thereof; and the said trustee, its successors or assigns, shall, after deducting from the proceeds of said sale the costs and expenses thereof and of managing said property, apply so much of the proceeds as may be necessary to the payment of said principal and interest on said bonds, and shall restore the residue thereof to the party of the first part, it being expressly under-
106 stood that in no case shall any claim or advantage be taken of valuation, appraisement, or extension laws by the party of the first part to prevent such entry or sale *or sale* as aforesaid.

Article 3. And it is further covenanted on the part of the said party of the first part, their successors or assigns, that the proceeds of said bonds shall be applied in good faith to the construction and equipment of said railroad, and the putting and the continuing the same in operation. And the said party of the first part further covenants with the said party of the second part, and their successors or assigns, in said trust to make, execute, and deliver all and singular such further assurances and instruments as shall from time to time be necessary, and as the said trustee or its counsel shall reasonably advise or require, for the better assuring and securing the said trustee, its successors or assigns, in the trust hereby created in the said railroad property, appurtenances, and effects hereby mortgaged or intended so to be.

Article 4. And it is hereby mutually agreed, and these presents are upon this express condition, that upon payment of the
107 principal and interest of said bonds the estate hereby granted to the said party of the second part shall be void, and the right to the premises hereby conveyed shall revert and revest in the

said party of the first part, in law and in fact, without any acknowledgement of satisfaction, conveyance, re-entry, or other act, but said party of the second —, their successors or assigns, shall, if so requested thereto by the party of the first part, their successors or assigns, reconvey, release, or quit-claim to the said party of the first part, their successors or assigns, at the cost of the last-named party all and singular the premises hereinbefore mentioned.

Article 5. And it is also further mutually agreed that the said party of the second part, their successors or assigns in said trust, shall be entitled to receive proper compensation for any labor or service performed by them in the discharge of this trust in case they shall be compelled to take possession of said premises and manage the same, and the said trustee, its successors or assigns, party of the second part, shall not in any manner be responsible for any default or misconduct of agents of them employed, but shall exercise a
108 reasonable care in the selection and appointment of such agents.

In evidence whereof the party of the first part have hereunto set their corporate seal, and the party of the second part have also affixed their signature and seal for the purpose of evidencing the acceptance of the trust hereby created, on the day and year first above written.

BELLEVILLE AND ELDORADO
RAILROAD COMPANY,
By PHILLIP D. B. GRATTAN, *Pres't.*

Attest: [SEAL.] BOEN PHILLIPS, *Secretary.*

THE FARMERS' LOAN AND
TRUST COMPANY,
By R. G. ROLSTON, *Pres't.*

Attest: [SEAL.] GEO. P. LESLIE, *Sec't'y.*

STATE OF ILLINOIS, }
Saline County, } *ss:*

I, John F. Latham, a notary public in and for the county and State aforesaid, do hereby certify that Phillip D. B. Gratton, who is personally known to me to be the real person he represents himself to be, this day personally appeared before me and acknowledged that he signed, sealed, and delivered the foregoing mortgage in his official capacity, for the uses and purposes therein set forth.
109 Given under my hand and seal this November 5th, A. D. 1877.

[SEAL.] JOHN F. LATHAM, *N. P.*

STATE OF NEW YORK, }
City and County of New York, } *ss:*

On this 13th day of November, 1877, before me, personally appeared R. G. Rolston, the president of the Farmers' Loan and Trust Company of the City of New York, with whom I am personally acquainted, who being by me duly sworn, said that he resides in the

city of New York; that he knew the corporate seal of said corporation; that the seal affixed to foregoing instrument was such corporate seal; that it was affixed by order of the board of directors of said corporation, and that he signed his name thereto as president by the like authority.

In witness whereof I have hereunto affixed my seal and signed my name the day and date last above written.

No. 14. [SEAL.] W. D. SEARLS,
Notary Public N. Y. County.

STATE OF NEW YORK, }
City and County of New York, } ss:

110 I, Henry A. Gumbleton, clerk of the city and county of New York, and also clerk of the supreme court for the said city and county, the same being a court of record, do hereby certify that W. D. Searles, whose name is subscribed to the certificate of proof or acknowledgement of the annexed instrument, and thereon written, was at the time of taking such proof or acknowledgement, a notary public in and for the city and county of New York, dwelling in said city, commissioned and sworn and duly authorized to take the same, and further that I am well acquainted with the handwriting of such notary, and verily believe that the signature to the said certificate of proof or acknowledgement is genuine. I further certify that said instrument is executed and acknowledged according to the law of the State of New York.

In testimony whereof I have hereunto set my hand and affixed the seal of the said court and county the 13th day of Nov., 1877.

[SEAL.] HENRY A. GUMBLETON, *Clerk.*

Filed in my office for record on the 6th day of February, A. D. 1878, and duly recorded.

R. H. FLANNIGAN, *Recorder.*

111 EXHIBIT "P."

STATE OF ILLINOIS, }
County of Franklin, } ss:

I, R. H. Flannigan, circuit clerk and recorder in and for said county and State aforesaid, do hereby certify that the foregoing is a true copy of the record of an instrument recorded in my office in book "F" of mortgages, on page- 24 to 34, inclusive.

Witness my hand and official seal this 17th day of May, 1879.

[SEAL.] R. H. FLANNIGAN,
Cir. Cl'k & Recorder.

Indorsed: Filed Aug. 4, 1880. R. H. Flannigan, cir. cl'k.

STATE OF ILLINOIS, }
Franklin County, } ss:

John S. Smith, being by me first duly sworn, on his oath states that on the 30th day of June, A. D. 1880, he mailed notices, of which the annexed is a true copy, to the following-named persons, at the

post offices, as follows, to wit: W. H. Nye, Rockville, Indiana; James M. Warren, Evansville, Indiana; J. C. Smith, State treasurer,
112 Springfield, Illinois; James Hill, Arkansas City, Kansas; E. F. Leonard, pres't B. & E. R. R. Co., Springfield, Illinois; T. B. Needles, auditor, Springfield, Illinois; W. Bayard Cutting, New York City, N. Y.

JOHN S. SMITH.

Subscribed and sworn to before me this 30th day of June, 1880.
[SEAL.] R. H. FLANNIGAN, *Cir. Clk.*

STATE OF ILLINOIS, *Franklin County,* } ss:

Thomas J. Layman, being duly sworn, on his oath states that he has made diligent inquiry to learn the post-office address of each of the persons named in the above and foregoing affidavit of John S. Smith, and that the post-office address of each of said parties is correctly stated in said affidavit, as he is informed and believes.

THOS. J. LAYMAN.

Subscribed and sworn to before me this 1st day of July, A. D. 1880.
R. H. FLANNIGAN,
Per JOHN S. SMITH, *Deputy.*

Bill in Chancery for Injunction and Relief.

STATE OF ILLINOIS, *Franklin County:*

In Circuit Court Franklin County. To October Term, A. D. 1880.

113 THE COUNTY OF FRANKLIN

vs.

THE BELLEVILLE AND ELDORADO RAILROAD COMPANY, T. B. NEEDES, Auditor of Public Accounts of the State of Illinois; J. C. Smith, Treasurer of the State of Illinois; Charles A. Akin, Clerk of the County Court, Franklin County, Illinois; Wm. D. Seeber, Sheriff of said County; James Hill & W. H. Nye, W. Bayard Cutting, James M. Warren, and the unknown holders of 149 bonds, of the denomination of $1,000 each, issued by Franklin County in payment of subscription to the Belleville and Eldorado Railroad.

The above-named defendants will please take notice that complainants will, on the 8th day of July, 1880, apply before Hon. David J. Baker, one of the judges of the first judicial circuit of the State of Illinois, at chambers, in the city of Mt. Vernon, State of Illinois, for an injunction in the above-entitled cause, when and where you may appear, if you think proper, and resist said
114 application.

June 30th, 1880.

W. J. ALLEN,
THOS. J. LAYMAN,
Sol's for Compl's.

We acknowledge service of the within notice this 1st day of July, A. D. 1880.

W. D. SEEBER,
Sheriff of Franklin County, Ill's.
CHAS. A. AKIN,
County Clerk of Franklin Co., Ill's.

Indorsed: Filed Aug. 4th, 1880. R. H. Flannigan, cir. cl'k.

115 *Bill in Chancery for Injunction and Relief.*

STATE OF ILLINOIS, } ss:
Franklin County, }

Of the October Term of the Franklin County Circuit Court, A. D. 1880.

THE COUNTY OF FRANKLIN

vs.

THE BELLEVILLE AND ELDORADO RAILROAD COMPANY, CHARLES A. Akin, County Clerk of Franklin County, Illinois; W. D. Seeber, Sheriff and Collector of Franklin County, Illinois; Thomas B. Needles, Auditor of Public Accounts of the State of Illinois; J. C. Smith, Treasurer of the State of Illinois; W. Bayard Cutting, James Hill, William H. Nye, James M. Warren, and the unknown holders of 149 bonds, of the denomination of $1,000 each, issued by Franklin County, in the State of Illinois, in payment of subscription to the capital stock of the Belleville and Eldorado Railroad Company.

Thos. J. Layman, being by me first duly sworn according to law, on his oath states that he is one of the attorneys for the com-
116 plainant, The County of Franklin, in the above-styled cause, and he further states, that on due inquiry the unknown holders of the 149 bonds above mentioned cannot be found; and that the names of the holders of said bonds are not known to this affiant, and that their post-office address is unknown to this affiant. He further states that the said W. Bayard Cutting, James Hill, William H. Nye, and James M. Warren, and each and every one of them, resides out of this State.

He further states that he has made diligent inquiry to *the* learn the post-office address and residence of the said W. Bayard Cutting, James Hill, William H. Nye, and James M. Warren, and each of them, and that he is informed and believes that the residence and post-office address of the said W. Bayard Cutting is New York City, New York; and that he is informed and believes that the residence and post-office address of the said James Hill is Arkansas City, Kansas; and that he is informed and believes that the residence and post-office address of the said William H. Nye is Rockville, Indiana; and that he is informed and believes that the residence and post-office address of the said James M. Warren is Evansville,
117 Indiana; and further he says not.

THOS. J. LAYMAN.

Subscribed and sworn to before me this 4th day of August, A. D. 1880.

R. H. FLANNIGAN, *Cir. Cl'k.*

Filed August 4th, 1880.

R. H. FLANNIGAN, *Cir. Cl'k.*

Bill in Chancery for Injunction and Relief.

STATE OF ILLINOIS, } *ss:*
Franklin County, }

Of the October Term of the Franklin Circuit Court, A. D. 1880.

THE COUNTY OF FRANKLIN

vs.

THE BELLEVILLE AND ELDORADO RAILROAD COMPANY, CHARLES A. Akin, County Clerk of Franklin County, Illinois; W. D. Seeber, Sheriff and Collector of Franklin County, Illinois; Thomas B. Needles, Auditor of Public Accounts of the State of Illinois; J. C. Smith, Treasurer of the State of Illinois; W. Bayard Cutting, James Hill, William H. Nye, James M. Warren, and the unknown holders of 149 bonds, of the denomination $1,000 each,
118 issued by Franklin County, in the State of Illinois, in payment of subscription to the capital stock of the Belleville and Eldorado Railroad Company.

Affidavit of John M. Darr.

John M. Darr, being by me first duly sworn according to law, on his oath states that he resides at Ewing, in Franklin county, Illinois, and that he is one of the county commissioners of Franklin county, in the State of Illinois, and that he is chairman of the county board of said Franklin county. He further states that the holders of the said 149 bonds issued by said county to the Belleville and Eldorado Railroad Company, and mentioned and described in the bill in the above-styled cause, are interested in the subject-matter of this suit, and that the names of the holders of said bonds are unknown, and that he knows nothing of the whereabouts or residence of the holders of said bonds, or either of them. He further states that the said W. Bayard Cutting, James Hill, William H. Nye, and James M. Warren, and each of them, reside out of the State, as he is informed and believes; that he is informed and believes that the residence of said W. Bayard Cutting is New York city, New York; and
119 that he is informed and believes that the residence of said William H. Nye is Rockville, Indiana; and that he is informed and believes that the residence of the said James Hill is Arkansas City, Kansas; and that he is infromed and believes that the residence of the said James M. Warren is Evansville, Indiana.

JOHN M. DARR.

Subscribed and sworn to before me this 4th day of August, A D. 1880.

R. H. FLANNIGAN, *Cir. Cl'k.*

Filed Aug. 4th, 1880.

R. H. FLANNIGAN, *Cir. Cl'k.*

Summons.

STATE OF ILLINOIS, } ss:
Franklin County, }

The People of the State of Illinois to the sheriff of Sangamon county, Greeting:

We command you to summon Thomas B. Needles, auditor of public accounts of the State of Illinois, & J. C. Smith, treasurer of the State of Illinois, impleaded with the Belleville and Eldorado Railroad Company; Charles A. Akin, county clerk of Franklin county, Illinois; W. D. Seeber, sheriff and collector of Franklin county, Illinois; W. Bayard Cutting, James Hill, William H. Nye, James
120 M. Warren, and the unknown holders of one hundred and forty-nine bonds, of the denomination of one thousand dollars each, issued by Franklin county, in the State of Illinois, in payment of subscription to the capital stock of the Belleville and Eldorado Railroad Company, if *he* shall be found in your county, personally to be and appear before the circuit court of said Franklin county, on the first day of the next term thereof, to be holden at the court-house in Benton, in said Franklin county, on the 25th day of October, A. D. 1880, to answer unto the County of Franklin, in its certain bill of complaint in chancery for injunction and relief, filed in said court, on the chancery side thereof. And have you then and there this writ, with an endorsement thereon in what manner you shall have executed the same.

Witness R. H. Flannigan, clerk of our said circuit court, and the seal thereof, at Benton, this 4th day of August, A. D. 1880.

[SEAL.] R. H. FLANNIGAN, *Clerk.*

Executed this writ by reading the same and delivering a true copy thereof to each, Thomas B. Needles, auditor of public accounts of Illinois, and J. C. Smith, treasurer of the State of Illinois,
121 both within named, this 11th day of August, 1880. The other within-named defendants not found in my county.

S. N. SHOUP,
Sh'ff Sang. Co.

Sh'ff's fees, $2.00, paid by cl'k.

Filed in circuit court this 12th day of August, 1880.

R. H. FLANNIGAN, *Clerk.*

Injunction Writ.

STATE OF ILLINOIS, } ss:
Franklin County, }

The People of the State of Illinois to Thomas B. Needles, auditor of public accounts of the State of Illinois, and your successors in office, and J. C. Smith, treasurer of the State of Illinois, and your successors in office, and your attorneys, solicitors, agents, and servants, and to each and every one of them, Greeting:

Whereas it hath been represented to the Honorable David J. Baker, one of the judges of the first judicial circuit of the State of

Illinois, on the part of the County of Franklin, complainant, in its certain bill of complaint exhibited before said judge, and filed
122 in said court against you, the said Thomas B. Needles, auditor of public accounts of the State of Illinois, and your successors in office, and J. C. Smith, treasurer of the State of Illinois, and your successors in office, to be relieved touching the matters therein complained of, in which bill is stated, among other things, that you are combining and confederating with others to injure the complainant touching the matters set forth in said bill, and that your actings and doings in the premises are contrary to equity and good conscience, and the said judge having under his hand indorsed upon said bill an order that a writ of injunction issue out of said court, according to the prayer of said bill: We, therefore, in consideration thereof, and of the particular matters in said bill set forth, do strictly command you, the said Thomas B. Needles, auditor of public accounts of the State of Illinois, and your successors in office, and J. C. Smith, treasurer of the State of Illinois, and your successors in office, and the persons before mentioned, and each and every one of you, that you do absolutely desist and refrain from estimating and determining the rate per centum on the valuation of the property within Franklin county requisite to meet and satisfy the amount of interest due or to become due on 149 bonds,
123 of the denomination of one thousand dollars each, issued by said county in payment of subscription to the capital stock of the Belleville and Eldorado Railroad Company, and you and your successors are hereby enjoined from making or transmitting to the county clerk of said county any certificate stating such estimate requisite for the payment of the interest on said bonds, or for the payment of any of said bonds, or from paying the coupons on 149 bonds, of the denomination of one thousand dollars each, issued by said county in payment of subscription to the capital stock of the Belleville and Eldorado Railroad Company, or either of them, or any of said bonds, or any part thereof, until this honorable court, in chancery sitting, shall make other order to the contrary. Hereof fail not, under the penalty of what the law directs.

To the sheriff of Sangamon county to execute and return in due form of law.

Witness R. H. Flannigan, clerk of said circuit court, and the seal thereof, at Benton, in said county, this 4th day of August, A. D. 1880.

[SEAL.] R. H. FLANNIGAN, *Clerk.*

Served this writ on the within-named Thomas B. Needles, auditor, &c., and J. C. Smith, treasurer, &c., by reading the same
124 and by delivering a true [copy] thereof to each of them the 11th day of August, 1880.

S. N. SHOUP,
Sheriff Sang. Co.

Filed in said court this 12th day of August, A. D. 1880.
R. H. FLANNIGAN, *Clerk.*

Summons.

STATE OF ILLINOIS, } ss:
Franklin County, }

The people of the State of Illinois to the coroner of Franklin county, Greeting:

We command you that you summon the Belleville & Eldorado Railroad Company, Charles A. Akin, county clerk of Franklin county, Illinois; W. D. Seeber, sheriff and collector of Franklin county, Illinois; Thomas B. Needles, auditor of public accounts of the State of Illinois; J. C. Smith, treasurer of the State of Illinois; W. Bayard Cutting, James Hill, William H. Nye, James M. Warren, and the unknown holders of one hundred and forty-nine bonds of the denomination of one thousand dollars each, issued by Franklin county, in the State of Illinois, in payment of subscription to the capital stock of the Belleville & Eldorado Railroad Company, if they shall be found in your county, personally to be and
125 appear before the circuit court of said Franklin county, on the first day of the next term thereof, to be holden at the court-house in Benton, in said Franklin county, on the 25th day of October, A. D. 1880, to answer unto the county of Franklin in its certain bill of complaint, in chancery, for injunction and relief, filed in said court, on the chancery side thereof.

And have you then and there this writ, with an endorsement thereon in what manner you shall have executed the same.

Witness R. H. Flannigan, clerk of our said circuit court, and the seal thereof, at Benton, this 4th day of August, A. D. 1880.

[SEAL.] R. H. FLANNIGAN, *Clerk.*

STATE OF ILLINOIS, } ss:
Franklin County. }

I have duly served the within on the Belleville & Eldorado Railroad Company by reading and delivering a true copy of the within to G. B. Hoblit, a director and secretary of said railroad company, the president of said railroad company not residing or being found in my county. I have also served the within on the within-named Charles A. Akin, clerk of the county court of Franklin county, Ills., and W. D. Seeber, sheriff and *ex-officio* collector of Franklin county, Ills., by reading to each of them, and delivering a true copy
126 of the same to each of them. The within-named unknown bondholders, and the within-named James Hill, William H. Nye, W. Bayard Cutting, & James M. Warren; J. C. Smith, treasurer of the State of Illinois, & Thomas B. Needles, auditor of public accounts of the State of Illinois, not found in my county.

Dated this 18th day of August, 1880.

A. H. COOK, *Coroner.*

Filed in circuit court this 18th day of August, A. D. 1880.

R. H. FLANNIGAN, *Clerk.*

Injunction Writ.

STATE OF ILLINOIS, } ss:
Franklin County. }

The people of the State of Illinois to W. D. Seeber, sheriff and collector of Franklin county, Illinois, and your successors in office, and Charles A. Akin, county clerk of Franklin county, Illinois, and your successors in office, and your attorneys, solicitors, and agents, and servants, and to each and every of them, Greeting:

Whereas it hath been represented to the Honorable David J. Baker, one of the judges of the first judicial circuit of the State of Illinois, and the sole presiding judge of the circuit court
127 of Franklin county, in said circuit and State aforesaid, on the part of the County of Franklin, complainant, in its certain bill of complaint exhibited before said judge and filed in said court against you, the said W. D. Seeber, sheriff and collector of Franklin county, Illinois, and your successors in office, and Charles A. Akin, county clerk of Franklin county, Illinois, and your successors in office, to be relieved touching the matters therein complained of; in which bill is stated, among other things, that you are combining and confederating with others to injure the complainant touching the matters set forth in said bill, and that your actings and doings in the premises are contrary to equity and good conscience; and the said judge having, under his hand, indorsed upon said bill an order that a writ of injunction issue out of said court, according to the prayer of said bill; we, therefore, in consideration thereof and of the particular matters in said bill set forth, do strictly command you, the said W. D. Seeber, sheriff and collector of Franklin county, Illinois, and your successors in office, and Charles A. Akin, county clerk of Franklin county, Illinois, and your successors in office, and the persons before mentioned, and each and every one of you, that
128 you do absolutely desist and refrain from collecting any more of the taxes to pay the interest on 149 bonds, of the denomination of one thousand dollars each, issued by Franklin county in payment of subscription to the capital stock of the Belleville and Eldorado Railroad Company, and from adding, extending, or placing on any of the collectors' books of said county any estimate or estimates which the State auditor may transmit or send to you for the purpose of paying the interest on 149 bonds, of the denomination of one thousand dollars each, issued by said county in payment of subscription to the capital stock of the Belleville and Eldorado Railroad Company or either of them or either of said bonds, until this honorable court, in chancery siting, shall make other order to the contrary. Hereof fail not under the penalty of what the law directs.

To the coroner of said county to execute and return in due form of law.

Witness R. H. Flannigan, clerk of said circuit court, and the seal thereof, at Benton, in said county, this 4th day of August, A. D. 1880.

[SEAL.] R. H. FLANNIGAN, *Clerk.*

STATE OF ILLINOIS, } ss:
Franklin County, }

I have duly served the within on W. D. Seeber, sheriff and collector of Franklin county, Illinois, and Charles A. Akin, clerk of the county court of Franklin county, Ills, by reading the same to them and delivering a true copy of the same to each of them as I am therein commanded.

Dated this 18th day of August, 1880.

A. H. COOK,
Coroner of Franklin Co., Ills.

Filed in court this 18th day of August, A. D. 1880.
R. H. FLANNIGAN, *Clerk.*

Injunction Writ.

STATE OF ILLINOIS, } ss:
Franklin County. }

The people of the State of Illinois to the Belleville and Eldorado Railroad Company, James M. Warren, W. Bayard Cutting, James Hill, Wm. H. Nye, and the unknown holders of 149 bonds, of the denomination of one thousand dollars each, issued by Franklin County, Ills., in payment of subscription to the capital stock of the Belleville and Eldorado Railroad Company, and your attorneys, solicitors, agents, and servants, and to each and every one of them, Greeting:

Whereas it hath been represented to the Honorable David J. Baker, one of the judges of the first judicial circuit of the State of Illinois, and the sole presiding judge of the circuit court of Franklin County, in said circuit and State aforesaid, on the part of the County of Franklin, complainant, in its certain bill of complaint exhibited before said judge and filed in said court against you, the said Belleville and Eldorado Railroad Company, James M. Warren, W. Bayard Cutting, James Hill, Wm. H. Nye, and the unknown holders of 149 bonds, of the denomination of one thousand dollars each, issued by Franklin County, Ills., in payment of subscription to the capital stock of the Belleville and Eldorado Railroad Company, to be relieved touching the matters therein complained of; in which bill is stated, among other things, that you are combining and confederating with others to injure the complainant, touching the matters set forth in said bill, and that your actings and doings in the premises are contrary to equity and good conscience, and the said judge, having, under his hand, indorsed upon said bill an order that a writ of injunction issue out of said court, according to the prayer of said bill, we, therefore, in consideration thereof and of the particular matters in said bill set forth, do strictly command you, the said The Belleville and Eldorado Railroad Company, James M. Warren, W. Bayard Cutting, James Hill, Wm. H. Nye, and the unknown holders of 149 bonds, of the denomination of one thousand dollars each, issued by

Franklin County, Ills., in payment of subscription to the capital stock of the Belleville and Eldorado Railroad Company and the persons before mentioned, and each and every one of you, that you do absolutely desist and refrain from suing said county on any of the coupons on said bonds until this honorable court, in chancery sitting, shall make other order to the contrary. Hereof fail not, under the penalty of what the law directs.

To the coroner of said county to execute and return in due form of law.

Witness R. H. Flannigan, clerk of said circuit court, and the seal thereof, at Benton, in said county, this 4th day of August, 1880.

[SEAL.] R. H. FLANNIGAN, *Clerk.*

STATE OF ILLINOIS, } ss:
Franklin County, }

I have duly served the within on the Belleville and Eldorado Railroad Company by reading and delivering a true copy of the same to G. B. Hoblit, a director and secretary of said railroad com-
132 pany; the within-named bondholders, James Hill, William H. Nye, W. Bayard Cutting, & James M. Warren, not found in my county.

Dated this 18th day of August, 1880.

A. H. COOK, *Coroner.*

Filed in said court this 18th day of August, A. D. 1880.

R. H. FLANNIGAN, *Clerk.*

Certificate of Mailing Notice to Non-resident Defendant. In Chancery.

STATE OF ILLINOIS, } ss:
Franklin County, }

THE COUNTY OF FRANKLIN
vs.
BELLEVILLE & ELDORADO RAILROAD COMPANY. } In Chancery.

I, R. H. Flannigan, clerk of the circuit court of said county, in the State aforesaid, do hereby certify that on the 19th day of August, A. D. 1880, being within ten days after the first publication of the notice hereunto appended, I sent by mail a copy of said notice to William H. Nye, defendant, at Rockville, State of Indiana, in pursuance of section 12 of an act of the General Assembly of the State of Illinois entitled "An act to regulate the practice in
133 courts of chancery," approved March 15, 1882.

Witness my hand and the seal of said court this 19th day of August, A. D. 1880.

[SEAL.] R. H. FLANNIGAN, *Clerk.*

Copy of notice herein referred to:

Chancery Notice.

STATE OF ILLINOIS, *Franklin County:*

To the October Term of the Franklin County Circuit Court, A. D. 1880.

THE COUNTY OF FRANKLIN

vs.

THE BELLEVILLE AND ELDORADO RAILROAD COMPANY, CHARLES A. Akin, County Clerk of Franklin County, Illinois; W. D. Seeber, Sheriff and Collector of Franklin County, Illinois; Thomas B. Needles, Auditor of Public Accounts of the State of Illinois; J. C. Smith, Treasurer of the State of Illinois; W. Bayard Cutting, James Hill, William H. Nye, James M. Warren, and the unknown holders of 149 bonds, of the denomination of $1,000 each, issued by Franklin County, in the State of Illinois, in payment of subscription to the capital stock of The Belleville and Eldorado Railroad Company.

Bill in chancery for injunction and relief.

Affidavits having been filed in my office that the above-
134 named W. Bayard Cutting, James Hill, William H. Nye, James M. Warren are non-residents of the State of Illinois, and that the above-mentioned unknown holders of one hundred and forty-nine bonds of the denomination of one thousand dollars each, issued by Franklin county, in the State of Illinois, in payment of subscription to the capital stock of the Belleville & Eldorado Railroad Company, cannot be found, and that the names of the holders of said bonds are unknown, and that their post-office address and residence is unknown: Now, therefore, you, the said W. Bayard Cutting, James Hill, William H. Nye, James M. Warren, and the unknown holders of one hundred and forty-nine bonds, of the demnomination of one thousand dollars each, issued by Franklin county, in the State of Illinois, in the payment of subscription to the capital stock of the Belleville and Eldorado Railroad Company, the defendants in the above-styled cause, are hereby notified that the above complainant has this day filed its bill in chancery for injunction and relief in this court against you, impleaded with the other defendants, as above set forth, and that a summons in chancery has this
day been issued for both you and the other defendants named
135 above, which summons is returnable on the first day of the next term of our said circuit court, to be commenced and holden at the court-house in Benton, in said county of Franklin and State of Illinois, on the fourth Monday of October next, and unless you, the said W. Bayard Cutting, James Hill, William H. Nye, James M. Warren, and the unknown holders of one hundred and forty-nine bonds, of the denominations of one thousand dollars each, issued by Franklin county, in the State of Illinois, in payment of subscription to capital stock of the Belleville & Eldorado Rail-

road Company, appear and plead, answer, or demur to said bill within the time limited for that purpose by the court the matters and things set forth in said bill will be taken as confessed by you, and a decree entered accordingly.

Given under my hand this 4th day of August, A. D. 1880.

R. H. FLANNIGAN,
Clerk of the Circuit Court.

ALLEN & LAYMAN,
Complainants' Solicitors.

Filed this 19th day of August, 1880.

R. H. FLANNIGAN, *Clerk.*

136 *Certificate of Mailing Notice to Non-resident Defendant. In Chancery.*

STATE OF ILLINOIS, *Franklin County:*

THE COUNTY OF FRANKLIN
vs.
BELLEVILLE & ELDORADO RAILROAD COMPANY. } In Chancery.

I, R. H. Flannigan, clerk of the circuit court of said county, in the State aforesaid, do hereby certify that on the 19th day of August, A. D. 1880, being within ten days after the publication of the notice hereunto appended, I sent by mail a copy of said notice to W. Bayard Cutting, defendant, at New York city, New York, in pursuance of section 12 of an act of the General Assembly of the State of Illinois entitled "An act to regulate the practice in courts of chancery," approved March 15, 1872.

Witness my hand and the seal of said court this 19th day of August, A. D. 1880.

[SEAL.] R. H. FLANNIGAN, *Clerk.*

Copy of notice herein referred to:

Chancery Notice.

STATE OF ILLINOIS,
County of Franklin, } *ss:*

137 To the October Term of the Franklin County Circuit Court, A. D. 1880.

THE COUNTY of FRANKLIN
vs.
THE BELLEVILLE & ELDORADO RAILROAD COMPANY, CHARLES A. AKIN, County Clerk of Franklin County, Illinois; W. D. Seeber, Sheriff and Collector of Franklin County, Illinois; Thomas B. Needles, Auditor of Public Accounts of the State of Illinois; J. C. Smith, Treasurer of the State of Illinois; W. Bayard Cutting, James Hill, William H. Nye, James M. Warren, and the unknown holders, of 149 bonds, of the denomination of $1,000 each, issued by Franklin County, in the State of Illinois, in payment of subscription to the capital stock of the Belleville & Eldorado Railroad Company.

Bill in chancery for injunction and relief.

Affidavits having been filed in my office that the above-named W. Bayard Cutting, James Hill, William H. Nye, — James M. Warren are non-residents of the State of Illinois, and that the above-mentioned unknown holders of one hundred and forty-nine bonds, of the denomination of one thousand dollars each, issued by Franklin county, in the State of Illinois, in payment of subscription to the capital stock of the Belleville & Eldorado Railroad Company,
138 cannot be found, and the names of the holders of said bonds are unknown, and that their post-office address and residence is unknown: Now, therefore, you, the said W. Bayard Cutting, James Hill, William H. Nye, James M. Warren, and the unknown holders of one hundred and forty-nine bonds, of the denomination of one thousand dollars each, issued by Franklin county, in the State of Illinois, in the payment of subscription to the capital stock of the Belleville & Eldorado Railroad Company, the defendants in the above-styled cause, are hereby notified that the above complainant has this day filed its bill in chancery for injunction and relief in this court against you, impleaded with the other defendants, as above set forth, and that a summons in chancery has this day been issued for both you and the other defendants named above, which summons is returnable on the first day of the next term of our said circuit court, to be commenced and holden at the court-house in Benton, in said county of Franklin and State of Illinois, on the fourth Monday of October next, and unless you, the said W. Bayard Cutting, James Hill, William H. Nye, James M. Warren, and the unknown holders of one hundred and forty-nine bonds, of the denomination of one thousand dollars each, issued by Franklin county, in the State
139 of Illinois, in payment of subscription to capital stock of the Belleville & Eldorado Railroad Company, appear and plead, answer or demur to said bill within the time for that purpose by the court the matters and things set forth in said bill will be taken as confessed by you, and a decree entered accordingly.

Given under my hand this 4th day of August, A. D. 1880.

R. H. FLANNIGAN,
Clerk of the Circuit Court.

ALLEN & LAYMAN,
Comp't's Solicitors.

Filed this 19th day of August, 1880.

R. H. FLANNIGAN, *Clerk.*

Certificate of Mailing Notice to Non-resident Defendant. In Chancery.

STATE OF ILLINOIS, } *ss:*
Franklin County, }

THE COUNTY OF FRANKLIN
vs.
BELLEVILLE & ELDORADO RAILROAD COMPANY *et al.* } In Chancery.

I, R. H. Flannigan, clerk of the circuit court of said county, in the

State aforesaid, do hereby certify that on the 19th day of
140 August, A. D. 1880, being within ten days after the first publication of the notice hereunto appended, I sent by mail a copy of said notice to James Hill, defendant, at Arkansas City, Kansas, in pursuance of section 12 of an act of the General Assembly of the State of Illinois entitled "An act to regulate the practice in courts of chancery," approved March 15, 1872.

Witness my hand and the seal of said court this 19th day of August, A. D. 1880.

[SEAL.] R. H. FLANNIGAN, *Clerk.*

Copy of notice herein referred to:

Chancery Notice.

STATE OF ILLINOIS, } ss:
Franklin County, }

To the October Term of the Franklin County Circuit Court, A. D. 1880.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE AND ELDORADO RAILROAD COMPANY, CHARLES A. Akin, Clerk of Franklin County, Illinois; W. D. Seeber, Sheriff and Collector of Franklin County, Illinois; Thomas B. Needles, Auditor of Public Accounts of the State of Illinois; J. C. Smith, Treasurer of the State of Illinois; W. Bayard Cutting, James Hill, William H. Nye, James M. Warren, and the unknown
141 holders of 149 bonds, of the denomination of $1,000 each, issued by Franklin County, in the State of Illinois, in payment of subscription to the capital stock of the Belleville & Eldorado Railroad Company.

Bill in chancery for injunction and relief.

Affidavits having been filed in my office that the above-named W. Bayard Cutting, James Hill, William H. Nye, James M. Warren are non-residents of the State of Illinois, and that the above-mentioned unknown holders of one hundred and forty-nine bonds, of the denomination of one thousand dollars each, issued by Franklin county, in the State of Illinois, in payment of subscription to the capital stock of the Belleville & Eldorado Railroad Company, cannot be found, and that the names of the holders of said bonds are unknown, and that their post-office address and residence is unknown: Now, therefore, you, the said W. Bayard Cutting, James Hill, William H. Nye, James M. Warren, and the unknown holders of one hundred and forty-nine bonds, of the denomination of one thousand dollars each, issued by Franklin county, in the State of Illinois, in the payment of subscription to the capital stock of the Belleville & Eldorado Railroad Company, the defendants in the above-styled cause,
142 are hereby notified that the above complainant has this day filed its bill in chancery for injunction and relief in this court against you, impleaded with the other defendants, as above set forth,

and that a summons in chancery has this day been issued for both you and the other defendants named above, which summons is returnable on the first day of the next term of our said circuit court, to be commenced and holden at the court-house in Benton, in said county of Franklin and State of Illinois, on the fourth Monday of October next, and unless you, the said W. Bayard Cutting, James Hill, William H. Nye, James M. Warren, and the unknown holders of one hundred and forty-nine bonds, of the denomination of one thousand dollars each, issued by Franklin county, in the State of Illinois, in payment of subscription to capital stock of the Belleville & Eldorado Railroad Company, appear and plead, answer, or demur to said bill within the time limited for that purpose by the court the matters and things set forth in said bill will be taken as confessed by you, and a decree entered accordingly.

Given under my hand this 4th day of August, A. D. 1880.

R. H. FLANNIGAN,
Clerk of the Circuit Court.

ALLEN & LAYMAN,
Comp't's Solicitors.

143 Filed this 19th day of August, 1880.

R. H. FLANNIGAN, *Clerk.*

Certificate of Mailing Notice to Non-resident. In Chancery.

STATE OF ILLINOIS, } ss:
Franklin County, }

THE COUNTY OF FRANKLIN
vs.
BELLEVILLE & ELDORADO RAILROAD COMPANY *et al.* } In Chancery.

I, R. H. Flannigan, clerk of the circuit court of said county, in the State aforesaid, do hereby certify that on the 19th day of August, A. D. 1880, being within ten days after the first publication of the notice hereunto appended, I sent by mail a copy of said notice to James M. Warren, defendant, at the city of Evansville, State of Indiana, in pursuance of section 12 of an act of the General Assembly of the State of Illinois entitled "An act to regulate the practice in courts of chancery," approved March 15, 1872.

Witness my hand and the seal of said court this 19th day of August, A. D. 1880.

[SEAL.] R. H. FLANNIGAN, *Clerk.*

Copy of notice herein referred to:

Chancery Notice.

144 STATE OF ILLINOIS, } ss:
Franklin County, }

To the October Term of the Franklin County Circuit Court.

THE COUNTY OF FRANKLIN

vs.

THE BELLEVILLE AND ELDORADO RAILROAD COMPANY, CHARLES A. Akin, County Clerk of Franklin County, Illinois; W. D. Seeber, Sheriff and Collector of Franklin County, Illinois; Thomas B. Needles, Auditor of Public Accounts of the State of Illinois; J. C. Smith, Treasurer of the State of Illinois; W. Bayard Cutting, James Hill, William H. Nye, James M. Warren, and the unknown holders of 149 bonds, of the denomination of $1,000 each, issued by Franklin County in the State of Illinois, in payment of subscription to the capital stock of the Belleville & Eldorado Railroad Company.

Bill in chancery for injunction and relief.

Affidavits having been filed in my office that the above-named W. Bayard Cutting, James Hill, William H. Nye, James M. Warren are non-residents of the State of Illinois, and that the above-mentioned unknown holders of one hundred and forty-nine bonds, of the denomination of one thousand dollars each, issued by Franklin county, in the State of Illinois, in payment of subscription to
145 the capital stock of the Belleville and Eldorado Railroad Company, cannot be found, and that the names of the holders of said bonds are unknown, and that their post-office address and residence is unknown: Now, therefore, you, the said W. Bayard Cutting, James Hill, William N. Nye, James M. Warren, and the unknown holders of one hundred and forty-nine bonds, of the denomination of one thousand dollars each, issued by Franklin county, in the State of Illinois, in the payment of the subscription to the capital stock of the Belleville & Eldorado Railroad Company, the defendants in the above-styled cause, are hereby notified that the above complainant has this day filed its bill in chancery for injunction and relief in this court against you, impleaded with the other defendants, as above set forth, and that a summons in chancery has this day been issued for both you and the other defendants named above, which summons is returnable on the first day of the next term of our said circuit court, to be commenced and holden at the courthouse in Benton, in said county of Franklin and State of Illinois, on the fourth Monday of October next, and unless you the said W. Bayard Cutting, James Hill, William H. Nye, James M. War-
146 ren, and the unknown holders of one hundred and forty-nine bonds, of the denomination of one thousand dollars each, issued by Franklin county, in the State of Illinois, in payment of subscription to capital stock of Belleville & Eldorado Railroad Company,

appear and plead, answer or demur to said bill within the time limited for that purpose by the court, the matters and things set forth in said bill will be taken as confessed by you, and a decree entered accordingly.

Given under my hand this 4th day of August, A. D. 1880.

R. H. FLANNIGAN,
Clerk of the Circuit Court.

ALLEN & LAYMAN,
Comp't's Solicitors.

Certificate of Publication.

STATE OF ILLINOIS, } ss:
Franklin County, }

I, the undersigned, publisher of the Benton Standard, a public newspaper printed in the town of Benton, in the county and State aforesaid, do hereby certify that a notice, of which the annexed is a true copy, has been regularly published in said newspaper 4 times in succession, commencing on the 6th day of August, A. D.
147 1880, and ending on 27th day of August, 1880.

Given under my hand, at my office in Benton aforesaid, this 26th day of October, A. D. 1880.

A. M. BROWNLEE,
Publisher Standard.

Printer's fee, $ —. Received payment.

Chancery Notice.

STATE OF ILLINOIS, } ss:
Franklin County, }

To the October Term of the Franklin County Circuit Court, A. D. 1880.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE & ELDORADO RAILROAD COMPANY, CHARLES A. Akin, County Clerk of Franklin County, Illinois; W. D. Seeber, Sheriff and Collector of Franklin County, Illinois; Thomas B. Needles, Auditor of Public Accounts of the State of Illinois; J. C. Smith, Treasurer of the State of Illinois; W. Bayard Cutting, James Hill, William H. Nye, James M. Warren, and the unknown holders of 149 bonds, of the denomination of $1,000 each, issued by Franklin County, in the State of Illinois, in payment of subscription to the capital stock of the Belleville & Eldorado Railroad Company.

Bill in chancery for injunction and relief.

Affidavits having been filed in my office that the above
148 named W. Bayard Cutting, James Hill, William H. Nye James M. Warren are non-residents of the State of Illinois, and that the above-mentioned unknown holders of one hundred and

forty-nine bonds, of the denomination of one thousand dollars each, issued by Franklin county, in the State of Illinois, in payment of subscription to the capital stock of the Belleville and Eldorado Railroad Company, cannot be found, and that the names of the holders of said bonds are unknown, and that their post-office address and residence is unknown:

Now, therefore, you, the said W. Bayard Cutting, James Hill, William H. Nye, James M. Warren, and the unknown holders of one hundred and forty-nine bonds, of the denomination of one thousand dollars each, issued by Franklin county, in the State of Illinois, in the payment of subscription to the capital stock of the Belleville & Eldorado Railroad Company, the defendants in the above-styled cause, are hereby notified that the above complainant has this day filed its bill in chancery for injunction and relief in this court against you, impleaded with the other defendants, as above set forth, and that a summons in chancery has this day been issued for both you and the other defendants named above,
149 which summons is returnable on the first day of the next term of our said circuit court, to be commenced and holden at the court-house in Benton, in said county of Franklin and State of Illinois, on the fourth Monday next; and unless you, the said W. Bayard Cutting, James Hill, William H. Nye, James M. Warren, and the unknown holders of one hundred and forty-nine bonds, of the denomination of one thousand dollars each, issued by Franklin county, in the State of Illinois, in payment of subscription to capital stock of the Belleville and Eldorado Railroad Company, appear and plead, answer, or demur to said bill within the time limited for that purpose by the court, the matters and things set forth in said bill will be taken as confessed by you, and a decree entered accordingly.

Given under my hand this 4th day of August, A. D. 1880.

R. H. FLANNIGAN,
Clerk of the Circuit Court.

ALLEN & LAYMAN,
Comp't's Solicitors.

Filed October 26th, 1880.

R. H. FLANNIGAN,
Cir. Clerk.

150 *Bill in Chancery for Injunction and Relief.*

THE COUNTY OF FRANKLIN

vs.

THE BELLEVILLE AND ELDORADO COM'NY, CHARLES A. AKIN, County Clerk of Franklin County, Illinois; W. D. Seeber, Sheriff and Collector of Franklin Co., Ills.; Thomas B. Needles, Auditor of Public Accounts of the State of Illinois; J. C. Smith, Treasurer of the State of Illinois; W. Bayard Cutting, James Hill, Wm. H. Nye, James M. Warren, and the unknown holders of one hundred and forty-nine bonds, of the denomination of one thousand dollars each, issued by Franklin County, in the State of Illinois, in payment of subscription to the capital stock of the Belleville and Eldorado Railroad Company.

WEDNESDAY, *October 27th, A. D.* 1880.

This day comes the complainant, by Allen & Layman, its solicitors, none appearing for defendants, or either of them, and the court finding that the defendants, J. C. Smith, treasurer of the State of Illinois; Thomas B. Needles, auditor of public accounts of the State of Illinois;

W. D. Seeber, sheriff and collector of Franklin county, Illinois;

151 Charles A. Akin, clerk of the county court of Franklin county, Illinois, and the Belleville and Eldorado Railroad Company had been duly and personally served with process of summons herein more than ten days before the commencement of this term of the court; and the court further finding that due and proper service by publication according to law had been had upon the other defendants, to wit, James Hill, William H. Nye, W. Bayard Cutting, James M. Warren, and the unknown holders of one hundred and forty-nine bonds, of the denomination of one thousand dollars each, issued by Franklin county, in the State of Illinois, in payment of subscription to the capital stock of the Belleville and Eldorado Railroad Company, and the said defendants still failing to plead, answer, or demur to said complainant's bill, it is therefore ordered, adjudged, and decreed that the same be taken *pro confesso*, and thereupon this cause comes on to be heard upon the bill so taken as confessed, and was argued by complainant's counsel, Messrs. Allen & Layman, and the court being fully advised in the premises, on consideration whereof the court doth find the one hundred and forty-nine bonds,

of the denomination of one thousand dollars each, issued by

152 Franklin county, Illinois, in payment of subscription to the capital stock of the Belleville and Eldorado Railroad Company, being the bonds mentioned in complainant's bill, and each and every one of them, were issued without any authority of law, and that each and every one of said bonds, together with the coupons thereto attached, were and are absolutely null and void, it is therefore ordered, adjudged, and decreed by the court that the holders of said bonds and coupons above described be required to deliver the same up to complainant for cancellation and destruction, and that upon such delivery of said bonds, or any part or parcel thereof, the said complainant surrender to such holder or holders of bonds so de-

livered for cancellation and destruction certificates of stock in the Belleville and Eldorado Railroad Company to the amount equal to the bond or bonds so delivered for the purpose aforesaid.

And it is further ordered, adjudged, and decreed by the court that the defendant, Thomas B. Needles, auditor of public accounts of the State of Illinois, and his successors in office, be, and he is hereby, perpetually enjoined and restrained from estimating and determining the rate per centum on the valuation of property within
153 said Franklin county requisite to meet and satisfy the amount of interest due or to become due on said bonds, or either of them, and from making or transmitting to the county clerk of said Franklin county any certificate or certificates stating such estimated requisite for paying the interest on any of said bonds, or for the payment of said bonds, or either of them.

And it is further ordered, adjudged, and decreed by said court that defendant, Charles A. Akin, county clerk of said Franklin county, and his successors in office, be perpetually enjoined from extending or placing on the tax or collector's books of said county any levy of taxes for paying the interest on any of said bonds, or either of them.

And it is further ordered, adjudged, and decreed by the court that the said defendants, James Hill, William H. Nye, W. Bayard Cutting, James M. Warren, and the said Belleville and Eldorado Railroad Company, and the unknown holders of the said bonds of said Franklin county, and each of them be perpetually enjoined and restrained from suing said county on any or either of the coupons of said bonds, or any or either of said bonds, and that the said J. C. Smith, treasurer of the State of Illinois, and his successors in
154 office, be perpetually enjoined and restrained from paying the coupons upon said bonds or either of them, or any of said bonds or either of them, and that the said William D. Seeber, sheriff and collector of Franklin county, and his successor in office, be perpetually enjoined and restrained from collecting any more of the taxes to pay the interest on said bonds or either of them, or to pay said bonds or either of them, and from making any further payment to the State treasurer of the money collected to pay the interest on said bonds or either of them. And it is further ordered, adjudged, and decreed that the so-called subscription of one hundred and fifty thousand dollars to the capital stock of the said railroad company, made on the 13th day of December, A. D. 1876, and the attempt made by the county board on the 12th day of November, A. D. 1877, to amend said subscription, and to contract for the building of said railroad, were and are unlawful and void; and it is further ordered and decreed that complainant receive of defendants the costs herein, and may have execution therefor, &c.

Approved.

D. M. B., *Judge.*

155 In the Circuit Court of Franklin County, State of Illinois.
October Term, A. D. 1881.

To the honorable the judge of the circuit court of Franklin county, in the State of Illinois, in chancery sitting:

The petition of the People's Savings Bank of Evansville, Indiana, respectfully shows to your honor that it is a corporation created and existing under and by virtue of the laws of State of Indiana; that at the October term, A. D. 1880, of this, the Franklin county circuit court, and on the 27th day of October, A. D. 1880, a final decree was passed and entered of record in said court in a certain cause therein pending, wherein The County of Franklin was complainant and The Belleville and Eldorado Railroad Company, Charles A. Akin, county clerk of Franklin county, Illinois; W. D. Seeber, sheriff of Franklin county, Illinois; Thomas B. Needles, auditor of public accounts of the State of Illinois; J. C. Smith, treasurer of the State of Illinois; W. Bayard Cutting, James Hill, William H. Nye, James M. Warren, and the unknown holders of one hundred and forty-nine bonds, of the denomination of thousand dollars each, issued by Franklin county, in the State of Illinois,
156 in payment of subscription to the capital stock of the Belleville and Eldorado Railroad Company, were the defendants; that your petitioner was at the commencement of said suit, and ever since has been, and now is, the owner and holder of the bonds of Franklin county, State of Illinois, numbered, respectively, sixteen and sixty-seven, issued to the Belleville and Eldorado Railroad Company, specified in and a part of the subject-matter of said suit and decree, and one of the defendants designated and described as "the unknown holders" of said bonds; and that the only defendants having any interest in said suit are those so designated as "the unknown holders," &c.

That your petitioner has never been within the jurisdiction of the State of Illinois, and has continuously, since its organization, been a citizen of the State of Indiana; that your petitioner has never been summoned in the aforesaid cause, or served with a copy of complainant's bill filed herein, or received the notice required to be sent by mail, or received any notice in writing of such decree.

Your petitioner therefore prays to be heard touching the matters of said decree, and that its corporate name may be substituted in place of the unknown holder of bonds numbered sixteen
157 and sixty-seven, and your petitioner now here offers to pay such costs, as the court shall deem reasonable in that behalf; and also that your honor will make such orders in the premises and grant such relief as is warranted by the statute in such case made and provided, and your petitioner will ever pray, &c.

THE PEOPLE'S SAVINGS BANK OF
EVANSVILLE, INDIANA,
[SEAL.] By M. HENNING, *Pres't.*

STATE OF INDIANA, } ss:
County of Vanderburgh, }

Matthew Henning, first being duly sworn, on his oath says: He is of lawful age; that he is president of The People's Savings Bank of Evansville, Indiana, the aforesaid petitioner; that he has read the foregoing petition, and the matters and things therein stated are true in substance and in matter of fact, and that he makes this affidavit for and on behalf of said petitioner; and further he says nothing.

THE PEOPLE'S SAVINGS BANK OF EVANSVILLE, INDIANA,
By M. HENNING, *Pres't.* [SEAL.]

Subscribed and sworn to before me by the said Matthew Henning, pres't, this 20th day of October, A. D. 1881.

158 In testimony whereof I have hereunto set my hand and official seal the day and year aforesaid.

[SEAL.] ROBERT D. RICHARDSON,
Notary Public, Vanderburgh County, Indiana.

Filed this Oct. 25th, 1881.

JAMES F. MASON, *Cir. Cl'k.*

STATE OF ILLINOIS, } ss:
County of Franklin, }

In the Circuit Court of said County, of the October Term, A. D. 1881. In Equity.

THE COUNTY OF FRANKLIN
vs.
THE BELVILLE AND ELDORADO RAILROAD COMPANY & Others.

The petition of The People's Savings Bank of Evansville, Indiana, respectfully shows: That it is one of the defendants herein; that it is now, and at the commencement of this suit was, a citizen of the State of Indiana and a corporation organized and existing under the laws of the said State of Indiana, and has its place of business in the city of Evansville, in said State, and that the said complainant is a citizen of the State of Illinois.

159 Your petitioner further shows to your honor that it is the sole owner of two of the bonds of Franklin county, State of Illinois, of the denomination and value of one thousand dollars each, sought to be invalidated by the complainant's bill, and that the matter in dispute and controversy between the said complainant and this defendant, petitioner, exceeds the sum of five hundred dollars, exclusive of costs, to wit, the sum of two thousand dollars.

Your petitioner would further show to your honor that, as between the same complainant and your petitioner, the said controversy is wholly between citizens of def-erent States, and that the same can be fully determined, as between them, without reference to the codefendants.

Your petitioner would further show to your honor that the present term of this court is the first term at which this cause could have

been tried, and that this has not been tried, and is now pending, in this court; that your petitioner desires to remove this cause to the circuit court of the United States for the southern district of Illinois, according to the act of Congress in such cases made and provided, and the petitioner herewith tenders a bond, as required by said act, and asks that the proper order be made in the premises.

160 THE PEOPLES' SAVINGS BANK OF
EVANSVILLE, INDIANA,
By M. HENNING, *Pres't.* [SEAL.]

STATE OF INDIANA, }
County of Vanderburgh, } *ss:*

Matthew Henning, first being duly sworn, on his oath says: He is of lawful age; that he is president of the People's Savings Bank of Evansville, Indiana, the aforesaid petitioner; that he has read the foregoing petition, and the matters and things therein stated are true in substance and in matter of fact, and that he makes this affidavit for and on behalf of said petitioner, and further he says nothing.

THE PEOPLE'S SAVINGS BANK OF
EVANSVILLE, INDIANA,
By M. HENNING, *Pres't.* [SEAL.]

Subscribed and sworn to before me by the said Matthew Henning, pres't, this 20th day of October, A. D. 1881.

In testimony whereof I have hereunto set my hand and official seal the day and year last aforesaid.

[SEAL.] ROBERT D. RICHARDSON,
Notary Public, Vanderburgh County, Indiana.

Filed this Oct. 25th, A. D. 1881.

JAMES F. MASON, *Clerk.*

161 In the Circuit Court of Franklin County, State of Illinois.
Of the October Term, A. D. 1881. In Equity.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE & ELDORADO RAILROAD COMPANY and others.

Now comes the People's Saving Bank of Evansville, Indiana, a corporation organized and existing under and by virtue of the laws of said State, and presents to the court its petition duly verified, and moves the court—

I. To redocket the aforesaid cause.

II. To make an order substituting the name of your petitioner in the place of the unknown holders of bonds numbered, respectively, 16 and 67, and that such proceeding may be had in said cause as if the said People's Savings Bank of Evansville, Indiana, had appeared in due season and no decree had been made herein.

THE PEOPLE'S SAVINGS BANK OF
EVANSVILLE, INDIANA,
By SAMUEL P. WHEELER, *Its Attorney.*

Filed this Oct. 25th, A. D. 1881.

JAMES F. MASON, *Cir. Cl'k.*

162 Know all men by these presents that we, the People's Savings Bank of Evansville, Indiana, as principal, and Samuel P. Wheeler, of the county of Alexander, in the State of Illinois, as surety, are held and firmly bound unto the county of Franklin, in the State of Illinois, in the penal sum of five hundred dollars; for the payment whereof, well and truly to be made, we bind ourselves, our successors, heirs, representatives, and assigns, jointly, severally, and firmly, by these presents. Yet upon these conditions the said The People's Savings Bank of Evansville, Indiana, having petitioned the circuit court of Franklin county, Illinois, for the removal of a certain cause therein pending, wherein the County of Franklin is complainant and the People's Savings Bank of Evansville, Indiana, impleaded with others, is defendant, to the circuit court of the United States for the southern district of Illinois: Now, if the People's Savings Bank of Evansville, Indiana, shall enter in the said circuit court of the United States, on or before the first day of its next term, a copy of the record in said suit, and shall well and truly pay all costs that may be awarded by said circuit court of the United
163 States if said court shall hold that said suit was wrongfully removed thereto, then this obligation shall be void; otherwise to be in full force and virtue.

Witness our hands and seals the 20th day of October, A. D. 1881.

THE PEOPLES' SAVINGS BANK
OF EVANSVILLE, INDIANA,
By M. HENNING, *Pres't.* [SEAL.]
SAMUEL P. WHEELER. [SEAL.]

STATE OF ILLINOIS, }
Franklin County, } *ss*:

Samuel P. Wheeler, being duly sworn, on his oath says: He is the security who signed the foregoing bond; that he is worth five hundred dollars over and above all his debts and exceptions; that he resides in the county of Alexander, in the State of Illinois, and further he says nothing.

SAMUEL P. WHEELER.

Subscribed and sworn to before me by Samuel P. Wheeler, the 25th day of October, A. D. 1881.

JAMES F. MASON, *Cl'k.*

Filed this Oct. 25th, A. D. 1881.

JAMES F. MASON, *Clerk.*

164 In the Circuit Court of Franklin County, State [of] Illinois.
October Term, 1881.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE & ELDORADO RAILROAD COMPANY and Others.

Now comes the German Savings Bank of Davenport, Iowa, a cor-

poration organized and existing under and by virtue of the laws of said State of Iowa, and presents to the court its petition, duly verified, and moves the court—

1st. To redocket the aforesaid cause.

2nd. To make an order substituting the name of your petitioner in the place of the unknown holders of the certain bonds particularly described by their numbers in the petition of petitioner, and that such proceedings may be had in said cause as if the said The German Savings Bank of Davenport, Iowa, had been made herein.

THE GERMAN SAVINGS BANK
OF DAVENPORT, IOWA,
By E. E. COOK AND G. C. CARSTENS,
Its Solicitors.

Filed this Oct. 27th, A. D. 1881.

JAMES F. MASON, *Clk.*

165 In the Circuit Court.

STATE OF ILLINOIS, }
County of Franklin, } *ss:*

THE COUNTY OF FRANKLIN, ILLINOIS,
vs.
THE BELLEVILLE & ELDORADO RAILROAD COMPANY, CHARLES A. Atkin, Clerk of Franklin County, Illinois; Thomas B. Needles, Auditor of Public Accounts of the State of Illinois; W. D. Seeber, Sheriff and Collector of Franklin County, Illinois; J. C. Smith, State Treasurer of the State of Illinois; W. Bayard Cutting, James Hill, William H. Nye, James M. Warren, the unknown holders of the bonds of Franklin County, Illinois, and The German Savings Bank of Davenport, Iowa (a holder of certain of said bonds), Defendants.

Petition of the German Savings Bank of Davenport, Iowa, to be Heard in said Cause.

To the said circuit court:

Your petitioner, The German Savings Bank of Davenport, Iowa, states that it is, and at and long before the commencement of the above-entitled suit was, a corporation organized and existing under the laws of the State of Iowa, and having its principal place of business at the city of Davenport, in said State of Iowa. That
166 by complainant's bill in said cause the unknown holders of bonds of Franklin county, Illinois, are made defendants; that at and long before the commencement of said suit your petitioner owned and held eighteen of said bonds of said Franklin county, Illinois, for the sum of one thousand dollars each, issued under the provisions of an act of the General Assembly of the State of Illinois, entitled "An act to incorporate the Belleville & Eldorado Railroad Company, approved February 22nd, 1861, which said bonds are numbered as follows: 11, 12, 14, 30, 33, 34, 35, 39, 47, 56, 57, 58, 59, 60, 62, 63, 66, and 67, of the aggregate value of eighteen thousand dollars, besides the interest.

And your petitioner further owned and held long before the commencement of said suit nine of the bonds of Franklin county for the sum one thousand dollars each, issued under the provisions of an act of the General Assembly of the State of Illinois, entitled "An act to authorize cities and counties to subscribe stock to railroads, approved November 6th, 1849, which said bonds are numbered as follows: 15, 18, 39, 40, 41, 42, 43, 45, & 46, of the aggregate value of nine thousand dollars, besides interest.

167 That petitioner still owns and holds all of the said twenty-seven bonds, and that it was and is one of the unknown holders sought to be effected by the decree rendered in said cause by the court on or about the 27th day of October, 1880.

Your petitioner further states that it was never summoned or served with a copy of the bill, nor received the notice required to be sent by mail. Petitioner therefore asks that it may be heard touching the matter of the decree in this cause, and that it may appear and answer the complainant's bill, and that such proceedings shall be had as if petitioner had appeared in due season and no decree had been made. Petitioner will pay such costs as this court shall deem reasonable in this behalf, but respectfully submits to the court that no costs should be taxed against it by reason of the granting of this application.

THE GERMAN SAVINGS BANK
OF DAVENPORT, IOWA.
By H. H. ANDERSON, *Cashier.*
G. G. CARSTENS,
E. E. COOK,
Solicitors for said German Savings Bank.

STATE OF IOWA, } ss:
Scott County, }

I, H. H. Andersen, being duly sworn, do say that I am the
168 cashier of the German Savings Bank of Davenport, Iowa, the corporation which makes the foregoing petition; that I have read the said petition, and all the statements thereof are true, as I verily believe.

H. H. ANDERSEN.

Subscribed by the said H. H. Andersen in my presence and by him sworn to before me this third day of October, 1881.

[SEAL.] JACOB STRASSER,
Notary Public, Scott County, Iowa.

Filed this Oct. 27th, A. D. 1881.

JAMES F. MASON, *Clk.*

Answer of German Savings Bank of Davenport, Iowa.

In Circuit Court.

STATE OF ILLINOIS, } ss:
County of Franklin, }

THE COUNTY OF FRANKLIN, ILLINOIS,

vs.

THE BELLEVILLE & ELDORADO RAILROAD COMPANY, CHARLES A. Akin, Clerk of Franklin County, Illinois; W. D. Seeber, Sheriff and Collector of Franklin County, Illinois; Thomas B. Needles, Auditor of Public Accounts of the State of Illinois; J. C. Smith, State Treasurer of the State of Illinois; W. Bayard Cutting, James Hill, William H. Nye, James M. Warren, the unknown holders of bonds of Franklin Co., Illinois, and the German Savings
169 Bank of Davenport, Iowa (a holder of certain of said bonds), Defendants.

The answer of the German Savings Bank of Davenport, Iowa, one of the defendants, to the bill of complainant, The County of Franklin, Illinois.

This defendant, a corporation organized and existing under the laws of the State of Iowa, reserving to itself all right of exception to the bill of complaint, for answer thereto, saith:

That it is, and long before the filing of said bill of complaint was, the owner and holder of certain bonds of Franklin county referred to in the said bill of complaint.

That this defendant purchased eighteen of the bonds of said Franklin county, for the sum of one thousand dollars each, issued under the provisions of an act of the General Assembly of the State of Illinois — "An act to incorporate the Belleville and Eldorado Railroad Company," approved February 22d, 1861, which said bonds are numbered as follows: 11, 12, 14, 30, 33, 34, 35, 39, 47, 56, 57, 58, 59, 60, 62, 63, 66, and 77, of the aggregate value of eighteen thousand dollars, besides interest.

170 And this defendant also purchased nine of the bonds of said Franklin county, for the sum of one thousand dollars each, issued under the provisions of an act of the General Assembly of the State of Illinois entitled "An act to authorize cities and counties to subscribe stock to railroads," approved November 6th, 1849, which said bonds are numbered as follows: 15, 18, 39, 40, 41, 42, 43, 45, & 46, of the aggregate value of nine thousand dollars, besides interest. That all of said bonds were purchased by this defendant in good faith, for a valuable consideration, and without notice of any defense or objection to the validity of any one or more of said bonds, before the same were due, and before any default in the payment of any interest on any one of said bonds, and before the commencement of this suit.

Defendant refers to the said several bonds as they may be produced upon the hearing of this cause.

And this defendant, further answering, says that it believes it to

be true that on the 24th day of July, 1869, the county court of Franklin county made an order to hold an election on the 11th day of September, 1869, in the county of Franklin, by authority of an act approved February 22d, 1861, and of an act approved November 6th, 1849, upon the question of whether or not the
171 county of Franklin shall subscribe the sum of two hundred thousand dollars to the capital stock of the Belleville and Eldorado Railroad Company, payable in bonds at par, due in twenty years from date, with 8 per cent. interest per annum, payable semi-annually, of the denomination of one thousand dollars each; and that certain conditions were provided in said notice, as stated in paragraph or division of complainant's bill numbered one, but this defendant does not know the same of its own knowledge.

This defendant, further answering, says that it believes it be true that on the 11th day of Sepember, 1869, an election was held, and that on the 6th day of November, 1869, the county court entered an order reciting the said election authorizing the county court to subscribe the sum of two hundred thousand dollars to the capital stock of the said railroad company, one hundred thousand dollars by virtue of an act of the general assembly entitled "An act to incorporate the Belleville & Eldorado Railroad Company," approved February 22d, 1861, and the further sum of one hundred thousand dollars by virtue of an act of the General Assembly approved November 6th, 1849, authorizing cities and counties to take stock
172 in railroad companies, said capital stock payable in the bonds of Franklin county at par, due in twenty years from the date thereof, at 8 per cent. per annum, payable semi-annually in denomenations of one thousand dollars each, the said bonds to be issued upon certain stated —, as recited in the second paragraph or division of complainant's bill of complaint, but this defendant does not know the same of its own knowledge.

This defendant, further answering, says that it has not knowledge or information sufficient to form a belief as to the truth of the allegations that the said county court never made an order to give notice of the election, as required by law, held September 11th, 1869, or that no notice of said election as required by law was ever given, or that said railroad company never complied with the conditions and terms on which stock was subscribed, or that no work on said railroad was commenced in the said county of Franklin until 1877, and that no part of the same was completed until the year 1877.

Further answering, this defendant says that it believes it to be true that the county court, on the 6th day of February,
173 1871, extended the time for the commencement and completion of said railroad, and that the said subscription was made on the stock books of the said Belleville & Eldorado Railroad Company on certain conditions and terms as stated in paragraph or division numbered three in the bill of complaint, but this defendant does not know the same of its own knowledge. And this defendant believes it to be true that the said county court made a subscription on the stock books of the said railroad company, and avers upon information and belief that the subscriptions which were so made

were legal and binding, and it believes that subscriptions were made by the said county court substantially as stated in the fourth paragraph or division of complainant's bill, but it does not know the same of its own knowledge.

Further answering, this defendant says that it believes it to be true that on the 13th day of December, 1876, the board of supervisors of said Franklin county, by the authority of the vote of the people cast at an election held September 11th, 1869, and by the authority of an act of the General Assembly of the State of Illinois entitled "An act to incorporate the Belleville Eldorado Rail-
174 road Company," approved February 22d, 1861, and of an act of the General Assembly approved November 6th, 1849, did subscribe to the capital stock of the said railroad company the sum of one hundred and fifty thousand dollars, being seventy-five thousand dollars, by virtue of each of the acts of the General Assembly heretofore mentioned, said capital stock being payable in the bonds of said Franklin county at par, said bonds to be issued and placed in the hands of a trustee, to be paid out upon conditions stated in the fifth paragraph or division of complainant's bill; but this defendant does not know the same of it- own knowledge.

Further answering, this defendant says that it believes it to be true that on the 12th day of November, 1877, the board of supervisors of said county made an order to the effect stated in the sixth paragraph or division of complainant's bill; but this defendant does not know the same of its knowledge.

And this defendant denies that at that time the said subscription had lapsed or become null and void.

Further answering, this defendant says that as to the truth of the remaining averments and statements in said bill as to the
175 various acts done it hath not knowledge or information sufficient to form a belief.

This defendant denies all the allegations as to the unconstitutionality of any of said acts, or as to the invalidity of the said bonds.

And this defendant submits to the court that even if all the allegations of fact made in the said bill are true, nevertheless this defendant, being a *bona fide* holder for value of the said bonds, without notice of any illegality in said bonds or of any irregularities affecting their issue, as hereinbefore stated, the matters alleged in said bill cannot affect this defendant.

Further answering, this defendant says that it bought the said bonds in good faith for a valuable consideration, and that it was wholly unaware of any defect of authority or other irregularity on the part of those acting for the said Franklin county, and that there was nothing to excite its suspicion of any defect or irregularity, even if such defect or irregularity in fact existed; that the said Franklin county had power to issue negotiable securities and this defendant presumed, and had a right to presume, that the securities, to
176 wit, the bonds held and owned by it were issued under the circumstances which gave the requisite authority; that said negotiable securities or bonds held by this defendant as aforesaid, on their face import by recitals a compliance with the law or laws

under which they were issued, and that this defendant had no knowledge or suspicion whatever that the said recitals were in any respect untrue, or that there was any defect or irregularity in the exercise of the authority under which said bonds were issued.

Further answering, this defendant says that it was the sole province of the officers and the county authorities, who executed and issued the bonds as aforesaid, to decide whether or not there had been antecedent compliance with the requirements, conditions, and qualifications prescribed to their authority, and avers that the said officers and authorities had determined that there had been such a compliance, and that their declaration to that effect is sufficient, and cannot be impugned as against this defendant, a *bona fide* holder as aforesaid.

That the said bonds or securities were issued and subscribed to the object of their issue, and that this defendant in purchasing the same had a right to presume and did presume that the conditions
177 precedent to the right to issue had been faithfully fulfilled, and to presume, and it did presume, that all precedent requirements had been complied with. That the omission of any formality or the existence of any fraud on the part of the agents of Franklin county issuing said bonds cannot be urged against this defendant, a *bona fide* holder, seeking to enforce the bonds held by it.

Further answering, this defendant says that the said county of Franklin is estopped from objecting to the validity of the said bonds. Defendant avers that the said county and the inhabitants thereof failed to interfere and enjoin the issue of the said bonds when they were to be executed, but acquiesced in the issue of the said bonds.

And this defendant further says that the said county and its inhabitants had, before the purchase of said bonds, submitted to taxation to pay the interest accruing on said bonds, and that since its purchase of said bonds one installment of interest has been paid thereon, and therefore the bonds and coupons had been ratified and are now valid and binding on the said county.

This defendant further states that the shares of stock of said railroad company were received by the said Franklin county in
178 payment for the bonds, and that the said Franklin county has ever since held and owned the same, and by virtue thereof has participated in the election of officers of the railroad company, and in all other benefits and advantages attendant on said ownership.

This defendant further states that on Monday, July 14th, 1879, the said County of Franklin, by its board of supervisors, entered into written articles of agreement with the said Belleville & Eldorado Railroad Company and James Hill & Co., contractors, for the construction of the said Belleville & Eldorado Railroad, which articles are in the words and figures following, to wit:

Articles of agreement made and entered into between the County of Franklin, in the State of Illinois, party of the first part, the Belleville and Eldorado Railroad Company, party of the second part, and James Hill & Co., contractors, for the construction of the Belleville & Eldorado railroad, parties of the third part, witnesseth:

That whereas the said County of Franklin has heretofore issued and placed in the hands of the Evansville National Bank of Evansville, Indiana, as trustee, one hundred and fifty bonds of said county of the denomination of one thousand dollars each, which
179 said bonds were placed in the hands of said bank, as trustee, in pursuance of a contract with said County of Franklin and said Belleville and Eldorado Railroad Company and the said James Hill & Co. for the construction and completion of the Belleville and Eldorado railroad from the east line of Franklin county to Duquoin, in Perry county; and under said contract the said trustee was directed to pay said bonds to the said railroad company in *pro rata* installments as each mil- of said railroad should be complete-, in pursuance of said contract, from the said east line of said Franklin county westward to Duquoin; and whereas said railroad has been completed under said contract to a point two miles west from Benton, in said county, and eighty-three of said bonds have been delivered to said railroad company and said James Hill & Co., under said contract, leaving sixty-seven of said bonds yet in the hands of said trustee; and whereas the said County of Franklin, party of the first part, did, in the month of May last, retain Andrew D. Duff, counsellor-at-law, to institute suit in the Franklin circuit court, to enjoin the delivery of said bonds then in the
180 hands of the said trustee and agreed to pay to said Duff, a fee of two thousand dollars, and have paid to said Duff three hundred dollars on said fee; and whereas the said county of Franklin has by its board of supervisors abandoned and discontinued said injunction suit, whereby the fee of said Duff has become due and payable; and whereas the said Andrew D. Duff has proposed in the spirit of compromise to said county to accept in full satisfaction of his fee in said suit one thousand dollars in addition to the three hundred dollars already paid him; and whereas the said Belleville & Eldorado Railroad Company, through its contractors, the said James Hill & Co., has made ample arrangements for the certain completion of said railroad through to Duquoin, in strict compliance with the said contract aforesaid; and whereas all the materials necessary for the completion of said railroad have been bought and paid for, and enough thereof is now on the line of said road to complete the same eight miles west from Benton, and the remainder of said materials ready to be placed along the line of said road as fast as the work progresses, so as to make room therefor; and whereas the said Belleville & Eldorado Company
181 and James Hill & Co. have pledged to secure the completion of said road to Duquoin four hundred and fifty-five thousand dollars, par value, of the first-mortgage bonds of said company, together with about seven thousand shares of the capital stock of said company, to W. Bayard Cutting, of the city of New York, who is furnishing the necessary means, in addition to the proceeds of the Franklin county bonds necessary for the construction of said railroad to Duquoin; and whereas grave questions as to the liabilities of the said county of Franklin for damages to the said railroad company and the said James Hill & Co. have grown out of the

action of said county with reference to the attempted litigation of said bonds, and as to the individual liability of the members of the board of supervisors; and whereas it is desirable on the part of parties hereto amicably to adjust and settle all differences growing out of the action of said county relative to said bonds on terms of equity and justice to all parties concerned:

Therefore, these presents witnesseth:

That in consideration of the premises and mutual cove-
182 nants, promises, agreements, and undertakings of the parties herinafter set forth, the said parties hereto mutually covenant, promise, undertake, and agree to and with each other as follows, to wit:

That the Belleville & Eldorado Railroad Company and the said James Hill & Co. hereby covenant, promise, and undertake and agree to and with the said County of Franklin that they will refund to said county the three hundred dollars paid to said Andrew D. Duff as his fee as aforesaid, and that they will pay to said Duff the one thousand dollars agreed to be accepted by him in satisfaction of said fee in the following manner: That they will deliver to the clerk of this board, for cancellation, one of the bonds of said county, of the denomination of one thousand dollars, when the same shall be received by them under this contract, and that they will pay all the expenses of the said trustee growing out of the trust created by said original contract; and they do further covenant and agree to and with the said county of Franklin and with each member of said board of supervisors that they will waive, and do hereby waive, and release all claims for damages which they claim to have
183 against said county or against any of the members of said board of supervisors growing out of any action of said board relative to the delivery of said bonds, and hereby waive and release all right of action either against the said county or against any of the individual members of said board growing out of the said matters.

And the County of Franklin hereby promises, covenants, undertakes, and agrees to and with the said Belleville & Eldorado Railroad Company and the said James Hill & Co. that the said Evansville National Bank, trustee as aforesaid, shall, and the said trustee is hereby, directed to deliver to the said railroad company and the said James Hill & Co. and John J. St. Clair, a member of board of supervisors of said county, on the presentation of this contract all of the bonds of said county remaining in the hands of said trustee under said original contract, taking their receipt for the same, and that said trustee on the delivery of said bonds under this contract shall be discharged from all responsibility as such trustee.

And the said Belleville & Eldorado Railroad Company and
184 James Hill & Co. further covenant, promise, and agree to and with the said county of Franklin that, when said bonds shall be so received by said railroad company, the said James Hill & Co. and the said John J. St. Clair, under this contract, said bonds shall remain in the hands of the said John J. St. Clair, and shall by him

be paid to the said railroad company and the said James Hill & Co. *pro rata* per mile as each mile of said road shall be completed from Benton to Duquoin, and received by the said John J. St. Clair, as heretofore provided for by the said board of supervisors of said Franklin county.

In witness whereof the said county of Franklin has executed this contract by the chairman of the board of supervisors, and the clerk of said board, under the seal of said board, and the said Belleville & Eldorado Railroad Company, by its president and secretary, under the seal of said company, and the said James Hill & Co., by their private signature and seals, dated this July 16th, A. D. 1879.

SAMUEL HAMILTON, [SEAL.]
Chairman of the Board of Supervisors of Franklin County, Illinois.
CHAS. A. AKIN, [SEAL.]
Clerk of said Board.
WM. R. WARD, [SEAL.]
President Belleville & Eldorado Railroad Company.
185 G. B. HOBLIT, [SEAL.]
Secretary Belleville & Eldorado R. R. Co.
JAMES HILL & CO. [SEAL.]

And now comes Samuel F. Buntin, and offers the following resolution, which is adopted by the board and ordered of record, as follows:

Resolved by the board of supervisors of Franklin county, That the foregoing contract between the county of Franklin, the Belleville & Eldorado Railroad Company, and James Hill & Co. be accepted on the part of said county, and that the chairman of the board and the clerk thereof sign the same on the part of the said county, under the seal thereof.

S. F. BUNTIN, *Mover.*

Answer of German Savings Bank of Davenport, Iowa.

Defendant avers, upon information and belief, that the said contract was executed and the bonds delivered in pursuance thereof; and it further avers that the bonds subsequently purchased and held by it were some of the same bonds referred to in said agreement; that the said Franklin county and its inhabitants thus solemnly ratified the said bonds and coupons, and represented them as valid and binding, and that there was no defence or objection to
186 said bonds and coupons, and permitted the said bonds to be delivered according to the terms of said contract, and to be negotiated to this defendant and other *bona-fide* purchasers for value, and without notice of any defence to, or objections against, the validity of said bonds;

Wherefore, this defendant prays that, as to the bonds and coupons held by it, complainant's bill may be dismissed for want of equity, and that the injunction heretofore granted may be dissolved so far

as the same may be applicable to the bonds and coupons held by this defendant, and for costs.

THE GERMAN SAVINGS BANK OF DAVENPORT, IOWA,
By H. H. ANDERSEN, *Cash.*

G. G. CARSTENS,
E. E. COOK,
Solicitors for said Def't, German Savings Bank, &c.

Subscribed in my presence by the said H. H. Andersen, and by him sworn to before me this 3rd day of October, 1881.

[SEAL.] JACOB STRASSER,
Notary Public, Scott County, Iowa.

Filed this Oct. 27th, A. D. 1881.

JAMES F. MASON, *Clerk.*

187 *Petition of German Savings Bank of Davenport, Iowa, for Removal to U. S. Cir. Court.*

In the Circuit Court.

STATE OF ILLINOIS, } ss:
Franklin County, }

THE COUNTY OF FRANKLIN, ILLINOIS,
vs.
THE BELLEVILLE & ELDORADO RAILROAD COMPANY, CHARLES A. Akin, Clerk of the County of Franklin, Illinois; W. D. Seeber, Sheriff and Collector of the County of Franklin, Illinois; Thomas B. Needles, Auditor of Public Accounts of the State of Illinois; J. C. Smith, State Treasurer of the State of Illinois; W. Bayard Cutting, James Hill, William H. Nye, James M. Warren, The Unknown Holders of Bonds of Franklin County, Illinois, and The German Savings Bank of Davenport, Iowa (a holder of certain of said bonds), Defendants.

Petition for removal to the circuit court of the United States for southern district of Illinois.

To the said circuit court of Franklin county, Illinois:

Your petitioner, the German Savings Bank of Davenport, Iowa, a corporation organized and existing under the laws of the State of Illinois, respectfully shows to this honorable court that the matter and amount in dispute in the above-entitled suit exceeds,
188 exclusive of costs, the sum or value of five hundred dollars; that the controversy in said cause is between citizens of different States; that the petitioner was and is a defendant to said suit as one of the unknown holders of bonds of Franklin county, and before the filing of this petition is admitted to be heard in said cause, and filed an answer therein; and that the petitioner was at and before the time of the commencement of this suit, and still is, a citizen of the State of Iowa, and was at and before the time of the

commencement of said suit, and ever since has been, and now is, a private corporation duly organized and existing under the laws of the State of Iowa, having its office and principal place of business at the city of Davenport, Iowa, and that the said plaintiffs, the County of Franklin, Illinois, was then and still is a citizen of the State of Illinois, being a public corporation existing for political purposes; that the defendant, The Belleville & Eldorado Railroad Company, was then and still is a citizen of the State of Illinois, and then was and still is a corporation duly organized and existing under the laws of the State of Illinois; and that the defendant,
Charles A. Akin, clerk of Franklin county, Illinois, was then
189 and still is a citizen of the State of Illinois; and that the defendant, W. D. Seeber, sheriff and collector of Franklin county, Illinois, was then and still is a citizen of the State of Illinois; and that the defendant, Thomas B. Needles, auditor of public accounts of the State of Illinois, was then and still is a citizen of the State of Illinois; and that the defendant, W. Bayard Cutting, was then and still is a citizen of the State of New York; and that the defendant, James Hill, was then and still is a citizen of the State of Illinois; and that the defendant, William H. Nye, was then and still is a citizen of the State of Illinois; and that the defendant, James M. Warren, was then and still is a citizen of the State of Colorado; that the defendants named as the unknown holders of bonds of Franklin county are unknown to petitioner excepting that petitioner itself was then and still is one of the holders of some of said bonds, and it cannot, therefore, state the names or citizenship of the other parties who are made defendants under the name of the unknown holders of bonds of Franklin county. Your petitioner states that in the said suit above mentioned there is a controversy which is wholly between citizens of different States, and which can be fully determined as between them, to wit, a controversy between the said petitioner and
190 the said plaintiff, The County of Franklin, Illinois. That the said County of Franklin issued certain bonds, which have been negotiated to different parties; that petitioner, long before the commencement of this suit, purchased twenty-seven of the said bonds, each of the denomination of one thousand dollars, in good faith, and for a valuable consideration, and without notice of any defence or objection to the validity of any one or more of said bonds before the same became due, and before any default in the payment of any interest on any one of said bonds; that by its bill in this cause the said plaintiff seeks to have this petitioner's said bonds and coupons declared void, and to have them surrendered for destruction, and to have the officers and their successors, through whom said bonds and coupons should be paid, enjoined from paying any part of the principal or interest of said bonds; that the controversy between the said plaintiff and petitioner, as to the validity of petitioner's bonds and coupons can be wholly determined without any regard to any of the other parties to said suit, as will more fully appear by reference to the pleadings filed in said cause before the filing of
191 this petition. And your petitioner offers herewith a bond, with good and sufficient surety, for its entering in said cir-

cuit court of the United States, on the first day of its next session, a copy of the record in this suit, and for paying all costs that may be awarded by said circuit court if said court shall hold that this suit was wrongfully or improperly removed thereto.

Petitioner prays this honorable court to proceed no further herein, except to make the order of removal required by law, and to accept the said surety and bond, and to cause the record herein to be removed into said circuit court of the United States in and for the said southern district of Illinois.

THE GERMAN SAVINGS BANK OF DAVENPORT, IOWA,
By H. H. ANDERSON, *Cash.*

G. G. CARSTENS,
E. E. COOK,
Solicitors for said Bank.

STATE OF IOWA, }
County of Scott, } ss:

I, H. H. Anderson, being duly sworn, do say: That I am the cashier of the German Savings Bank of Davenport, Iowa, petitioner in the above-entitled suit; that I have read the foregoing petition and know the contents thereof, and that the statements and allegations therein contained are true, as I verily believe.

H. H. ANDERSON.

192 Subscribed by the said H. H. Anderson, in my presence, and by him sworn to before me this 3d day of October, 1881.

[SEAL.] JACOB STRASSER,
Notary Public, Scott Co., Ia.

Filed this Oct. 27th, A. D. 1881.

JAMES F. MASON, *Clerk.*

Bond for Removal of Cause to U. S. Circuit Court.

Know all men by these presents that the German Savings Bank of Davenport, a corporation duly organized and existing under the laws of the State of Iowa, as principal, and Philemon L. Mitchell and Philander L. Cable, of the county of Rock Island, and State of Illinois, as sureties, are held and firmly bound unto the County of Franklin, in the State of Illinois, in the penal sum of one thousand dollars; the payment whereof, well and truly to be made unto the said County of Franklin, in the State of Illinois, and assigns, we bind ourselves, our successors, heirs, representatives, and assigns, jointly and severally, firmly by these presents; yet upon the following conditions: The said corporation, The German Savings Bank of Davenport, Iowa, having petitioned the circuit court of Franklin county, State of Illinois, for the removal of a certain cause therein pending,
193 wherein the County of Franklin is plaintiff, and the Belleville & Eldorado Railroad Company and others, including the German Savings Bank of Davenport, Iowa, are defendants, to the circuit court of the United States in and for the southern district of Illinois: Now, if the petitioners, The German Savings Bank of

Davenport, Iowa, shall enter in the said circuit court of the United States on the first day of its next session, a copy of the record in said suit, and shall well and truly pay all costs that may be awarded by said circuit court court of the United States if said court shall hold that said suit was wrongfully or improperly removed thereto, then this obligation to be void; otherwise in full force and virtue.

In witness whereof the said corporation, The German Savings Bank of Davenport, Iowa, has caused this bond to be signed by its cashier, and its corporate seal to be by him hereunto affixed; and the said sureties hereunto place their hands and seals this tenth day of October, 1881.

The German Savings Bank signing this bond by its cashier and hereunto affixing its seal, at Davenport, Iowa, and the said sureties signing this bond at Rock Island.

[German American Savings Bank of Davenport, Iowa,]

THE GERMAN SAVINGS BANK
OF DAVENPORT, IOWA,
By H. H. ANDERSON, *Cash.*
P. L. MITCHELL. [SEAL.]
P. L. CABLE. [SEAL.]

194 STATE OF ILLINOIS, } ss:
County of Rock Island. }

Philemon L. Mitchell & Philander L. Cable, of said county, sureties named in the foregoing bond, being duly sworn, each for himself deposeth and says: That he is a resident of Rock Island county, in the State of Illinois, and a property-holder therein; that he is worth the sum of more than one thousand dollars over and above all his debts and liabilities, and exclusive of property by law exempt from execution, and that he has property in the State of Illinois liable to execution of the value of more than one thousand dollars.

P. L. MITCHELL.
P. L. CABLE.

Subscribed in my presence by the said Philemon L. Mitchell and Philander L. Cable, and by them sworn to before me this tenth day of October, A. D. 1881.

J. M. BUFORD, [SEAL.]
Notary Public.

STATE OF ILLINOIS, } ss:
Rock Island County. }

I, Richard A. Donaldson, clerk of the county court in and for the county and State aforesaid, do hereby certify that Philemon L. Mitchell and Philander L. Cable, sureties named in the annexed bond, are each personally known to me to be residents of the county of Rock Island and State of Illinois; and I further certify
195 that they are each worth more than the sum of one thousand dollars over and — all their debts and liabilities, and exclusive of property by law exempt from execution, and that they each

have property in the State of Illinois liable to execution of the value of more than one thousand dollars.

In witness whereof I have hereunto affixed my hand and official seal, this 10th day of October, A. D. 1881.

[SEAL.] RICHARD A. DONALDSON, *Clerk.*

Filed this Oct. 27th, A. D. 1882.

JAMES F. MASON, *Clerk.*

Subpœna.

STATE OF ILLINOIS, } ss:
Franklin County. }

The People of the State of Illinois to the sheriff of Franklin county, Greeting:

We command you to summon John Williams to be and appear before the circuit court of said county forthwith at a term thereof now being held in Benton, in said county, to testify and the truth to speak in behalf of the County of Franklin, in a cause now pending in said court, wherein the County of Franklin is plaintiff and the B. & E. R. R. Co. *et al.* — defendants; and have you then and there this writ, with a return thereon showing in what manner you have executed the same.

Witness James F. Mason, clerk of said court, and the seal
196 thereof, at his office, in Benton, in said Franklin county, this 27th day of Oct., A. D. 1881.

[SEAL.] JAMES F. MASON, *Clerk.*

STATE OF ILLINOIS, } ss:
County of Franklin, }

OCT. 27, 1881.

I have duly served the within by reading the same to the within-named John Williams, as I am therein commanded.

W. R. JONES, *Sheriff,*
By R. M. HARRISON.

Filed in the circuit court this 28th day of Oct., 1881.

J. F. MASON,
Circuit Clerk.

Petition for Change of Venue.

STATE OF ILLINOIS, } ss:
Franklin County, }

Of the October Term of the Franklin County Circuit Court, A. D. 1881. Chancery.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE AND ELDORADO RAILROAD COMPANY *et al.*

To the Hon. D. M. Browning, presiding judge of said court:

The petitioners, John M. Darr and John W. Williams, most re-

spectfully represents unto your honor that they are members of the county board of the said county of Franklin aforesaid.

197 Your petitioners further represent unto your honor that that they are informed, and verily believe, that your honor has been counsel for parties in regard to the matters in controversy in this suit; that your petitioners fear that your honor, on account of your former connection with the matter in controversy, has some prejudice against the complainant in this case which will prevent an impartial trial of this cause.

Your petitioners further represent unto your honor that the facts on which this petition is based did not come to the knowledge of your petitioners so as to justify them in making this petition until after the commencement of the present term of this court.

Your petitioners therefore pray for a change of venue in this cause, pursuant to the statute in such case made and provided.

JOHN M. DARR.
JOHN W. WILLIAMS.

STATE OF ILLINOIS, } ss:
Franklin County, }

Of the October Term of the Franklin County Circuit Court, A. D. 1881. Chancery.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE AND ELDORADO RAILROAD COMPANY *et al.*

John M. Darr and John W. Williams, the petitioners in the above-styled cause, being by me first duly sworn according to law,

198 on their oaths state that the foregoing petition is true in substance and in fact; that the application for a change of venue is made with the consent of James A. Durham, the other member of said county board.

JOHN W. WILLIAMS.
JOHN M. DARR.

Subscribed and sworn to before me this 28th day of October, A. D. 1881.

JAMES F. MASON, *Clerk.*

Filed Oct. 28, 1881.

J. F. MASON, *Clerk.*

Objections to Complainant's Application for Change of Venue.

STATE OF ILLINOIS, } ss:
Franklin County, }

October Term of Franklin County Circuit Court, 1881. Chancery.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE & ELDORADO RAILROAD COMPANY *et al.*

Objections to complainant's application for change of venue and affidavit in support.

Now comes the German Savings Bank of Davenport, Iowa, one of

the defendants in the above-entitled action, and objects to the application for change of venue filed on this 28th day of October, 1881, by complainant's attorney, and protests against the allowance or granting of said application for the following reasons, viz:

199 1st. Because on the 27th of October, 1881, this defendant filed in said cause a petition to remove the same to the circuit court of the United States for the southern district of Illinois, and filed a bond with said petition for removal, as required by statutes of the United States, and that therefore this court has no right to grant a change of venue in said action, or to proceed any further therein, except to order the removal of said cause.

2d. Because it is not true that the Hon. D. M. Browning, presiding judge of said circuit court of Franklin county, Illinois, has been counsel for any of the parties to this suit in regard to any of the matters in controversy in this suit. In support of the second ground of objection herein, this defendant files herewith and as a part hereof the affidavit of one of its attorneys, E. E. Cook.

3d. Because the affidavit or petition for change of venue does not allege prejudice of the said judge, but merely avers argumentatively that on account of a supposed former connection of said judge with the matter in controversy (which connection, in fact, never existed), the petitioners fear that said judge has some prejudice against complainant which will prevent an impartial trial of this cause.

4th. Because any prejudice which said judge might possibly have, and which might be supposed to disqualify him for trying said cause upon its merits, cannot disqualify him from deter-

200 mining upon the question as to defendant's right of removal to said circuit court of the United States, so far as it may be necessary for this court to determine that question.

5th. Because, in fact, no interest of the judge in this cause is shown, and none, in fact, exists.

The said defendant, not waiving any of its rights to have said cause removed, as prayed by it, to said circuit court of the United States, and protesting and objecting that this court has not jurisdiction to make the order for change of venue or any other order, except to remove said cause, submits these objections and affidavit.

THE GERMAN SAVINGS BANK
OF DAVENPORT, IOWA,
By E. E. COOK AND G. C. CARSTENS,
Its Solicitors.

STATE OF ILLINOIS, }
Franklin County, } ss:

I, E. E. Cook, being duly sworn, do say that I am one of the solicitors for German Savings Bank of Davenport, Iowa, defendant, making foregoing objections; that it is not true, as I am informed and believe, that the Honorable D. M. Browning, presiding judge of the Franklin county, Illinois circuit court, has been counsel for any of the parties in regard to the matter in controversy in this suit. I further state that after complainant's petition for change of venue was filed, October 28th, 1881, and on said day I inquired of the said

judge, Hon. D. M. Browning, if ever he had been attorney or counsel for any of the parties herein, and that he informed me
201 that he had not been, but that he was upon the bench as such circuit judge at the time this suit was commenced, and had never been counsel for any parties in any matter involving the question of the validity of said bonds. I further understood him to say that when he was county judge of Franklin county he had got up the record in regard to issuing the bonds, and had prepared the forms of the bonds, but that he has no interest in the subject-matter of this litigation.

E. E. COOK.

Subscribed by the said E. E. Cook in my presence and by him sworn to before me this 28th day of October, 1881.

JAMES F. MASON, *Clerk.*

Filed this Oct. 28th, A. D. 1881.

JAMES F. MASON, *Clerk.*

STATE OF ILLINOIS, } *ss:*
County of Franklin, }

In the Circuit Court. October Term, A. D. 1881.

THE COUNTY OF FRANKLIN

vs.

THE BELLEVILLE AND ELDORADO RAILROAD COMPANY, CHARLES A. Akin, Clerk of the County Court of Franklin, County Illinois; Wm. D. Seeber, Sheriff and Collector of Franklin County, Illinois; Thomas B. Needles, Auditor of Public Accounts of the State
202 of Illinois; J. C. Smith, State Treasurer of the State of Illinois; W. Bayard Cutting, James Hill, William H. Nye, James M. Warren, the nnknown holders of bonds of Franklin County, Illinois, and The German Savings Bank of Davenport, Iowa (a holder of certain of said bonds), Defendants.

Bill in Chancery for Injunction, &c.

TUESDAY, *October the 25th, A. D.* 1881.

And now on this day, it being the 2nd day of this term, and one of the judicial days of this October term of the Franklin county circuit court, comes the People's Savings Bank of Evansville, Indiana, as owners of two bonds of Franklin county, issued to the Belleville and Eldorado Railroad Company, of the denomination of $1,000 each, by Samuel P. Wheeler, its solicitor, and makes its motion that this cause be redocketed, and the court, being fully advised, doth order that this cause be, and the same is, redocketed.

And afterwards, to wit, on the same day, comes the People's Savings Bank of Evansville, Indiana, by Samuel P. Wheeler, its solicitor, and files its petition to be allowed to defend, as holders and owners of two of the Franklin county bonds of the denomination of $1,000 each issued as aforesaid:

It is therefore ordered by the court that the said People's Savings

Bank of Evansville, Indiana, be allowed to become defendants as owners of two of the Franklin county bonds, issued to the
203 Belleville and Eldorado Railroad Company, of the denomination of one thousand dollars each.

And it is further ordered that the said People's Savings Bank of Evansville, Indiana, defendants as aforesaid, answer the complainant's bill herein within sixty days. Tuesday, 1st.

And now, afterwards, to wit, on the same day comes the People's Savings Bank of Evansville, Indiana, by Samuel P. Wheeler, its solicitor, and files its petition and bond petitioning this court for transfer of this cause to the United States circuit court at Springfield, Illinois. Tuesday, 1st.

THURSDAY, *October* 27, *A. D.* 1881.

Now, on this, it being the 4th, day of and one of the judicial days of this October term, as aforesaid, comes the German Savings Bank of Davenport, Iowa, by E. E. Cook, its solicitor, as owners of 27 bonds of Franklin county, Illinois, issued to the Belleville and Eldorado Railroad Company, of the denomination of $1,000 each, and makes its motion on affidavit to be permitted to defend; and the court, being fully advised, doth order that the German Savings Bank of Davenport, Iowa, have leave to file answer to complainant's bill herein.

And now, afterwards, to wit, on the same day again comes the German Savings Bank of Davenport, Iowa, by E. E. Cook, its solicitor, and files its answer to complainant's bill herein.

204 TUESDAY, 1*st.*

And now on this day again comes the German Savings Bank of Davenpert, Iowa, presents and files its petition and bond under the statute for removal of this cause to the United States circuit court at Springfield, Illinois.

Thursday, 1*st.*

FRIDAY, *October* 28*th*, *A. D.* 1881.

Now on this day, it being the 5th day of and one of the judicial days of this October term, as aforesaid, comes the complainant, by Thomas J. Layman, one of its solicitors, and makes its motion and files its petition for change of venue from Hon. D. M. Browning, presiding judge of this court of this term.

Now, afterwards, to wit, on the same day, again came the German Savings Bank of Davenport, Iowa, by E. E. Cook, its solicitor, and files its objections to complainants petition for change of venue, and the court being fully advised, doth refuse to pass upon the petition of the German Savings Bank of Davenport, Iowa, for removal of this cause to the United States circuit court at Springfield, Illinois, filed herein on account of the motion and petition of complainants for change of venue filed herein. And the court doth order that the venue of this cause be, and the same is hereby, changed from Hon. D. M. Browning, judge. Friday, 1st.

205 STATE OF ILLINOIS, } ss:
Franklin County, }

I, James F. Mason, clerk of the circuit court of Franklin county, in the State aforesaid, and keeper of the records and files of said court, do hereby certify the above and foregoing to be a true, perfect, and complete copy of the records and files in a certain cause now pending in said court, on the chancery side thereof, wherein the County of Franklin is complainant and the Belleville and Eldorado Railroad Company and others are defendants, as the same appear from the records and files of said court now in my office remaining.

In witness whereof I have hereunto set my hand and affixed the seal of said court at Benton, this 19th day of November, A. D. 1881.

[L. S.] JAMES F. MASON,
Circuit Clerk.

In the Circuit Court of the United States, Southern District of Illinois. January Term, A. D. 1882. In Equity.

THE COUNTY OF FRANKLIN
vs.
BELLEVILLE AND ELDORADO R. R. CO., THE PEOPLE'S SAVINGS BANK OF EVANSVILLE, IND., & Others.

206 Now comes the People's Savings Bank of Evansville, Indiana, one of the defendants aforesaid, and enters and files herein a copy of the record in said suit as required by law, and in compliance with the condition of its bond filed with its petition for removal.

THE PEOPLE'S SAVINGS BANK
OF EVANSVILLE, INDIANA,
By SAMUEL P. WHEELER, *Its Att'y.*

In the Circuit Court of the United States, Southern Division of Illinois. January Term, A. D. 1882. In Equity.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE & ELDORADO R. R. CO., THE GERMAN SAVINGS BANK OF DAVENPORT, IA., and Others.

Now comes the German Savings Bank of Davenport, Iowa, one of the defendants aforesaid, and enters and files herein a copy of the record in said suit, as required by law, and in accordance with the conditions of its bond filed with its petition for removal.

Dec. 16th, 1881.

E. E. COOK,
G. G. CARSTENS,
Sol's for German Savings Bank of Davenport, Iowa.

Filed December 21, 1881.

J. A. JONES,
Clerk U. S. Circuit Court.

207 And afterwards, to wit, on the 31st day of December, in the year aforesaid, came Thomas E. Garvin, by Samuel P. Wheeler, Esq., his attorney, and filed his petition to be made party defendant in said cause, which said petition is in the words and figures following, to wit:

Petition of Thomas E. Garvin to be Made Party Defendant.

In the Circuit Court of the United States for the Southern District of Illinois. January Term, A. D. 1881. In Equity.

In the Matter of THE COUNTY OF FRANKLIN

vs.

THE BELLEVILLE & ELDORADO R. R. CO., CHARLES A. AKIN, County Clerk of Franklin County, Ill.; Thomas P. Needles, Auditor of Public Accounts of the State of Illinois; J. C. Smith, Treasurer of the State of Illinois; W. Bayard Cutting, James Hill, Wm. H. Nye, James M. Warren, the unknown holders of one hundred and forty-nine bonds, of the denomination of one thousand dollars each, issued by Franklin County, in the State of Illinois, in payment of subscription to the capital stock of the Belleville & Eldorado R. R. Co.; The People's Savings Bank of Evans-
208 ville, Indiana, and The German Savings Bank of Davenport, Iowa.

To the judge of said court, in chancery sitting:

Your petitioner, Thomas E. Garvin, would respectfully show to your honor that he now is, and at the time of the commencement of this suit was, a citizen of the State of Indiana, and a resident of the city of Evansville, in said State; that he was, at the commencement of this suit, and now is, the owner of one of the bonds issued by the county of Franklin, in the State of Illinois, to the Belleville & Eldorado Railroad Company for the sum of one thousand dollars, and that the same is numbered five (5); that he is designated and described in said suit as an unknown holder of said bond; that no jurisdiction over the person of your petitioner has ever been acquired in said cause, and that he has continuously, since the commencement of this suit, been a citizen and resident of the State of Indiana aforesaid; that he has never been summoned in the aforesaid cause or served with a copy of complainant's bill, filed herein, or received the notice required to be sent by mail, or any notice in writing, of the decree entered in said cause by the circuit court of Frank-
209 lin county, Illinois, from whence this cause was removed.

Your petitioner therefore prays to be made a party defendant in this cause, and to be heard touching the subject-matter of said suit, to the end that equity may be done him in the premises.

THOMAS E. GARVIN,
By SAMUEL P. WHEELER, *His Sol'r.*

STATE OF INDIANA, } ss:
County of Vanderburg, }

Thomas E. Garvin, being sworn, says: That he is the petitioner in the aforesaid petition; that the matters and things stated therein are true in substance and in fact; and further he says nothing.

THOS. E. GARVIN.

Subscribed and sworn to before me by Thomas E. Garvin the 30 day of December, A. D. 1881.

In testimony whereof I have hereto set my hand and affixed my official seal the day and year aforesaid.

[L. S.] GEO. A. CUNNINGHAM,
Notary Public V. C.

(Indorsed:) Filed Dec. 31, A. D. 1881 J. A. Jones, cl'k.

210 And afterwards, to wit, on the 2d day of January, in the year of our Lord one thousand eight hundred and eighty-two, came the complainant, by Messrs. William J. Allen and Thomas J. Layman, its solicitors, and filed a written motion to remand said cause to the circuit court of Franklin county, Illinois, which said motion is in the words and figures following, to wit:

Motion of Complainant to Remand Cause to Franklin County Circuit Court.

In the Circuit Court of the U. S., Southern Dist. of Ills., Jan'y Term, A. D. 1882. Bill in Chancery.

THE COUNTY OF FRANKLIN
vs.
THE BELLÆVILLE & ELDORADO RAILROAD COMPANY *et al.*

And now comes The County of Franklin, complainant herein, by Wm. J. Allen & T. J. Layman, its sol's, and moves the court to remand said above-styled cause to the circuit court of Franklin county, Illinois.

WM. J. ALLEN,
THOS. J. LAYMAN,
Sol's for Compl't.

(Indorsed:) Filed January 2, 1882. J. A. Jones, clerk.

211 And on the day and year last aforesaid came Anthony Reiz, by Samuel P. Wheeler, Esq., his solicitor, and filed his petition to be made a party defendant in said cause, which said petition is in the words and figures following, to wit:

Petition of Anthony Reiz to be made Party Defendant.

In the Circuit Court of the United States for the Southern District of Illinois, January Term, A. D. 1881. In Equity.

In the Matter of THE COUNTY OF FRANKLIN

vs.

THE BELLEVILLE & ELDORADO R. R. CO., CHARLES A. AIKEN, County Clerk of Franklin County, Ill.; W. D. Seeber, Sheriff of Franklin County, Ills.; Thomas B. Needles, Auditor of Public Accounts of the State of Illinois; W. Bayard Cutting, James Hill, Wm. H. Nye, James M. Warren, The Unknown Holders of One Hundred and Forty-nine Bonds, of the Denomination of One Thousand Dollars each, Issued by Franklin County, in the State of Illinois, in Payment of Subscription to the Capital Stock of the Belleville & Eldorado R. R. Co.; The People's Savings Bank of Evans-
212 ville, Indiana, and the German Savings Bank of Davenport, Iowa.

To the judge of said court, in chancery sitting:

Your petitioner, Anthony Reiz, would respectfully show to your honor that he now is, and at the time of the commencement of this suit was, a citizen of the State of Indiana, and a resident of the city of Evansville, in said State; that — at the commencement of this suit and now is the owner of one of the bonds issued by the county of Franklin, in the State of Illinois, to the Belleville & Eldorado Railroad Company, for the sum of one thousand dollars, and that the same is numbered eighty (80); that he is designated and described in said suit as an unknown holder of said bond; that no jurisdiction over the person of your petitioner has ever been acquired in said cause, and that he has continuously since the commencement of the suit been a citizen and resident of the State of Indiana aforesaid; that he has never been summoned in the afore-
213 [said] cause, or served with a copy of complainant's bill, filed herein, or received the notice required to be sent by mail, or any notice in writing of the decree entered in said cause by the circuit court of Franklin county, Illinois, from whence this cause was removed; your petitioner, therefore, prays to be made a party defendant in this cause, and to be heard touching the subject-matter of said suit, to the end that equity may be done him in the premises, &c.

ANTHONY REIZ,
By SAMUEL P. WHEELER,
His Sol'r.

STATE OF INDIANA, }
County of Vanderbury, } *ss:*

Anthony Reiz, being sworn, says: That he is the petitioner in aforesaid petition; that the matters and things therein are true in substance and in fact; and further he says nothing.

ANTHONY REIZ.

Subscribed and sworn to before me by Anthony Reiz, the 31st day of December, A. D, 1881.

In testimony whereof I have hereto set my hand and affixed my official seal, the day and year aforesaid.

[L. S.] JESSE W. WALKER,
Clerk V. C. C.

(Indorsed:) Filed January 2d, 1882. J. A. Jones, clerk.

214 And afterwards, to wit, on Saturday, the 28th day of January, at the January term in the year last aforesaid, the following proceedings were had in said court, in said cause, and entered of record, to wit:

Order Overruling Motion to Remand Cause to State Court.

THE COUNTY OF FRANKLIN
v.
BELLEVILLE & ELDORADO RAILROAD COMPANY *et al.* } In Chancery.

And now on this 28th day of January, 1882, come the parties by their counsel and submit to the court the complainant's motion to remand this cause to the State court, and the court having heard their allegations and being sufficiently advised in the premises doth overrule said motion.

And afterwards, to wit, on Tuesday, the seventh day of February, in the term and year aforesaid, the following proceedings were had in said court in said cause and entered of record, to wit:

Order on Petition of Sarah B. Bruyn to be Made Party, &c.

COUNTY OF FRANKLIN
v.
BELLEVILLE & ELDORADO RAILROAD COMPANY *et al.* } In Chancery.

215 And now, on this 7th day of February, 1882, comes Sarah B. Bruyn, by her counsel, and files her petition herein praying to be made a defendant in this cause; which motion, being heard by the court, is allowed; and thereupon the said Sarah B. Bruyn files her answer to the original bill in this cause, and thereupon also the said Sarah Bruyn files her cross-bill herein, and on her motion it is ordered by the court that the defendants to said cross-bill file their answers thereto on or before the first Monday of April next.

Order on Petition of George W. Steele to be Made Party, &c.

COUNTY OF FRANKLIN
v.
BELLEVILLE & ELDORADO RAILROAD COMPANY *et al.* } In Chancery.

And now, on this 7th day of February, 1882, comes George W. Steele, by his counsel, and files his petition herein praying to be made a defendant in this cause; which motion, being heard by the

court, is allowed; and thereupon the said George W. Steele files his answer to the original bill in this cause, and thereupon also the said George W. Steele files his cross-bill herein, and
216 on his motion it is ordered by the court that the defendants to said cross-bill file their answer thereto on or before the first Monday of April next.

Order on Petition of John Graham to be Made Party, &c.

COUNTY OF FRANKLIN
vs.
BELLEVILLE & ELDORADO RAILROAD COMPANY *et al.* } In Chancery.

And now, on this 7th day of February, 1882, comes John Graham, by his counsel, and files his petition herein praying to be made a defendant in this cause; which motion, being heard by the court, is allowed; and thereupon the said John Graham files his answer to the original bill in this cause, and thereupon also the said John Graham files his cross-bill herein, and on his motion it is ordered by the court that the defendants to said cross-bill file their answers thereto on or before the first Monday of April next.

Order on Petition of Rothschild Bros. to be Made Parties, &c.

COUNTY OF FRANKLIN
v.
BELLEVILLE & ELDORADO RAILROAD COMPANY *et al.* } In Chancery.

217 And now, on this 7th day of February, 1882, come Rothschild Bros., by their counsel, and file their petition herein praying to be made defendants in this cause; which motion, being heard by the court, is allowed; and thereupon the said Rothschild Bros. file their answer to the original bill in this cause, and thereupon also the said Rothschild Bros. file their cross-bill herein, and on their motion it is ordered by the court that the defendants to said cross-bill file their answers thereto on or before the first Monday of April next.

And at the same time, to wit, on the day and year last aforesaid, came Sarah B. Bruyn, George W. Steele, John Graham, and Rothschild Brothers, by their respective solicitors, and filed in the office of the clerk of said court their respective "petition to be made party defendant," "answer to original bill," and "cross-bill," which said several petitions, answers, and cross-bills are respectively in the words and figures following, to wit:

218 *Petition of Sarah B. Bruyn to be Made Party Defendant.*

In the United States Circuit Court for the Southern District of Illinois. To the January Term, 1882.

To the Honorable Thomas Drummond, judge of the said court, in chancery sitting:

Your petitioner, Sarah B. Bruyn, respectfully shows unto your honor:

That she is a resident of the State of New York, and has been a resident of said State of New York for many years. That at the October term, A. D. 1880, of the Franklin county circuit court, and on the 27th day of October, A. D. 1880, a final decree was passed and entered of record in said court in a certain cause therein pending, wherein The County of Franklin was complainant and The Belleville and Eldorado Railroad Company, Charles A. Aken, county clerk of Franklin county, Illinois; W. D. Seeber, sheriff of Franklin county, Illinois; Thomas B. Needles, auditor of public accounts of the State of Illinois; J. C. Smith, treasurer of the State of
219 Illinois; W. Bayard Cutting, James Hill, William H. Nye, James H. Warren, and the unknown holders of one hundred and forty-nine bonds, of the denomination of one thousand dollars each, issued by Franklin county, in the State of Illinois, in payment of subscription to the Belleville and Eldorado Railroad Company, were the defendants. That your petitioner was, at and before the commencement of this suit, and now is, the holder and owner of two of the bonds of said Franklin county, numbered, respectively, ninety-six (96) and ninety-seven (97), each for the sum of one thousand dollars, issued to the Belleville and Eldorado Railroad Company, which bonds were and are a part of the subject-matter of litigation in this suit and in the decree in said suit rendered, and petitioner was designated and described in the bill of complaint filed and in the proceedings had and the decree obtained herein as "the unknown holders of one hundred and forty-nine bonds, of the denomination of one thousand dollars each, issued by Franklin county, in the State of Illinois." That your
220 petitioner never was within the jurisdiction of the said circuit court of Franklin county, nor of this court, before the presentation of this petition, having never been summoned in the aforesaid cause, or been served with a copy of the bill of complaint filed therein, nor has she ever received any notice in writing of the commencement or pendency of said cause or the rendition of said decree, nor has she ever before appeared in this cause by petition, plea, or otherwise, nor been a party in any way to said action, nor has any decree ever been rendered against your petitioner, except as "one of the unknown holders of said bonds," etc. Your petitioner therefore asks that she may be heard touching the matter of litigation in this cause, and of the decree rendered therein; that she may be allowed to appear herein and answer the bill of complaint heretofore filed, and that her name be inserted as defendant in place of "the unknown holders of the said bonds," etc.; and petitioner here and now agrees to pay all reasonable costs and expenses that may be taxed against her, but she submits that no costs should be taxed against her by reason of the granting of the prayer of
221 this petition.

SARAH B. BRUYN,
By CRATTY BROS. & ULRICH,
Her Solicitors.

STATE OF ILLINOIS, } ss:
County of Peoria, }

Fannie S. Steele, of said county, being first duly sworn, on *his* oath says: That *he* has heard read the foregoing petition and knows the contents thereof, and knows them to be true in substance and in fact, as *he* verily believes.

FANNIE S. STEELE.

Subscribed and sworn to before me this 3rd day of January, A. D. 1882.

[L. S.] NICHOLAS ULRICH,
Notary Public.

(Endorsed:) Filed February 7, 1882. J. A. Jones, clerk.

222 *Answer of Sarah B. Bruyn.*

In the United States Circuit Court for the Southern District of Illinois. In Chancery.

THE COUNTY OF FRANKLIN, ILLINOIS,
vs.
THE BELLEVILLE & ELDORADO RAILROAD COMPANY, CHARLES A. AKEN, and Others.

The answer of Sarah B. Bruyn to the bill of complaint filed herein by the County of Franklin.

This defendant, for answer to the said bill of complaint, or to so much of it as she is advised it is necessary for her to make answer unto, answering, says: That, at and before the filing of said bill, she was, and still is, the *bona fide* holder and owner of certain of the bonds of said Franklin county; that she purchased the said bonds for a valuable consideration, in the due course of business, as an investment; that she owns two of the said bonds for the sum of one thou-
223 sand dollars each, numbered, respectively ninety-six (96) and ninety-seven (97), which bonds there is interest due from the first day of July, 1880, at the rate of eight per cent. per annum, according to certain interest coupons thereto attached; that all of said bonds were purchased by defendant in good faith for a valuable consideration, and without any notice of any defence thereto, either in law or in equity, and before the commencement of this suit and before the said bonds, or any of them, were due by the terms thereof, the interest coupons numbered seven (7), eight (8), and nine (9), attached to the said bonds, each for the sum of forty dollars, and due respectively January first and July first, 1881, and January first, 1882, and still due and unpaid, the said County of Franklin, though often requested so to do, having refused to pay them; that there is due on the principal and interest of the defendants two bonds to January first, 1882, the sum of eleven hundred and twenty dollars on each bond.

This defendant, further answering, says that she has read the bill

of complaint herein filed by the County of Franklin, and all
224 the charges and allegations therein, and the exhibits thereto attached, and that she has also carefully read the answer of the German Savings Bank of Davenport, Iowa, one of the defendants, filed in this cause in the circuit court of Franklin county on the twenty-seventh day of October, 1881, while this cause was still pending in that court, and she is satisfied that the answer of the said German Savings Bank is a full and true answer to the said bill of complaint, and to each and every of the charges and allegations therein contained, and as full an answer to said bill as could be made by this defendant, or as she is advised is necessary for her to make, and she therefore makes and adopts the said answer of the said German Savings Bank of Davenport, and each and every part thereof, so far as the same are or can be made applicable as her answer, the same as though copied herein in full, and that the
225 same may be considered as the answer of this defendant to the said bill of complaint the same as though written out herein in full and signed by her, and she asks this court to so considered the said answer.

Wherefore she prays that as to the bonds and coupons of Franklin county held by her, numbered respectively ninety-six (96) and ninety-seven (97), the bill of complaint may be dismissed for want of equity, as there is no defense to said bonds either in law or equity, and that the injunction be dissolved and held for nought, so far as it affects her or her bonds and coupons, and that she be hence dismissed, with her reasonable costs in this behalf most wrongfully sustained.

SARAH B. BRUYN,
By CRATTY BROS. & ULRICH,
Her Solicitors.

226 STATE OF ILLINOIS, } ss:
County of Peoria, }

Fannie S. Steele, of said county, being first duly sworn on *his* oath, says: That *he* has heard read the above answer of Sarah B. Bruyn; also that part of the answer of the German Savings Bank adopted as part of this answer, and knows the contents thereof, and that the same are true in substance and in fact, except those matters and things stated upon information and belief, and, as to those, *he* believes them to be true.

FANNIE S. STEELE.

Subscribed and sworn to before me this 3rd day of January, 1882.
NICHOLAS ULRICH,
Notary Public.

(Indorsed:) Filed February 7, 1882. J. A. Jones, clerk.

227 *Cross-bill of Sarah B. Bruyn.*

In the United States Circuit Court for the Southern District of Illinois. To the January Term, 1882. In Chancery.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE AND ELDORADO RAILROAD COMPANY, CHARLES A. AKEN, and Others.

SARAH B. BRUYN
vs.
THE COUNTY OF FRANKLIN, ILLINOIS; CHARLES A. AKEN, County Clerk of Franklin County, Illinois; W. D. Seeber, Sheriff and Collector of Franklin County, Illinois; Edward Rutz, State Treasurer of the State of Illinois; Charles B. Swiggert, Auditor of Public Accounts of the State of Illinois. } Cross-bill.

For injunction.

To the Honorable Thomas Drummond, judge of the said court, in chancery sitting:

228 Your oratrix, Sarah B. Bruyn, respectfully represents unto your honor that she is a resident of Farmer Village, Seneca county, State of New York, and has been for many years last past; that she was made defendant in this cause by the name and designation of "the unknown holders of one hundred and forty-nine bonds, of the denomination of one thousand dollars each, issued by Franklin county, Illinois;" that upon petition of oratrix to this court she has been made party defendant in this cause, and has filed her answer to the original bill of complaint, to which original bill of complaint and her answer thereto she respectfully refers the court for full information as to the subject-matter of litigation in this case, and the rights and equities of your oratrix therein, and asks leave of court to make the said original bill of complaint and the answer of oratrix and the answer of the German Savings Bank of Davenport a part of her cross-bill, so far as may be pertinent or proper for the purposes of this cross-bill, and to obtain the relief herein prayed for.

229 Your oratrix further shows unto your honor that she holds and owns two certain bonds of the said county of Franklin that are a part of the subject-matter of the litigation in this cause in said original bill described, numbered respectively ninety-six (96) and ninety-seven (97); that she purchased the said bonds in the due course of business for a full valuable consideration, and she avers that she purchased them before the commencement of this suit, and without any notice whatever of any defense or pretended defense or objection to the said bonds on the part of any one, or as to their validity or regularity. She further shows that she was never served with any summons in this cause, or any written or printed notice of any kind, prior to the purchase of said bonds, giving her any intimation that there was any objection or defense to

the validity of said bonds; that the said bonds were not then, and are not now, due, and that she was an innocent purchaser and holder thereof before maturity.

Your oratrix further avers and charges that the said bonds so owned and held by her were legally and regularly issued by the said county of Franklin, under and by virtue
230 of an act of the Legislature of the State of Illinois, approved February 22nd, 1861, which act, as oratrix avers, was regular and valid in all particulars, and fully authorized and empowered the said county of Franklin to vote for and issue the said bonds now held by her, which bonds when issued would be, and as oratrix charges are now, a valid, legal, and existing obligation against the said county of Franklin. She further avers and charges that the said county did so issue the said bonds as authorized and voted, and did deliver them to *bona fide* purchasers thereof, for value; that said county received a valuable consideration for said bonds so issued and did so deliver them without objection or notice of defect or defense, before the said bonds were due, and they so came into oratrix'-hands as an innocent purchaser without notice. The said bonds purport on their face to be regularly and legally authorized and issued by the said county under and by virtue of the said act of February 22nd, 1861, and oratrix charges that the said county is now estopped from setting up or urging any defense or objection
231 to said bonds.

Your oratrix further shows that the said bonds draw interest at the rate of eight per cent. pér annum, payable semi-annually as per certain interest coupons attached thereto, each for the sum of forty dollars, due respectively January first and July first of each year; that there is due and unpaid on the two bonds held and owned by oratrix, the interest coupons maturing January first, 1881, July first, 1881, and January first, 1882, each for the sum of forty dollars, making a total amount due on each of the said bonds January first, 1682, for interest, of one hundred and twenty dollars, which sum is still due and unpaid; that she is justly entitled to interest on the said coupons from their maturity at legal rates.

Oratrix further avers that the treasurer of the State of Illinois holds in his hands a large amount of money belonging to the county of Franklin that was raised and placed in his hands for the special purpose of paying the interest on the bonds of your oratrix, with others, of the same issue.

232 Your oratrix, therefore, prays this honorable court to take cognizance of the matters and things as herein and in said original bill and said answer alleged, and of her rights and equities in the premises, and grant unto her the relief sought for, and to that end she makes "the said County of Franklin, Charles A. Aken, county clerk of Franklin county; W. D. Seeber, sheriff and collector of Franklin county; Edward Rutz, treasurer of the State of Illinois; Charles B. Swiggert, auditor of public accounts of the State of Illinois," defendants to this cross-bill, and asks that they be required to appear and answer the same, but not under oath (the oath being hereby waived), and that the injunction heretofore granted in

this case against the State treasurer enjoining him from paying the interest coupons held by and belonging to your oratrix — said bonds ninety-six (96) and ninety-seven (97) be at once dissolved, and the said treasurer be ordered to pay the said past-due coupons
233 and interest thereon to your oratrix; and that upon a hearing hereof a decree may be rendered by this court finding that the said bonds and coupons, numbered as above, are a legal, valid, regular, and binding obligation of said county of Franklin, and that the same shall be fully paid as they mature, both principal and interest; that the injunction be modified and wholly dissolved as to your oratrix'- said bonds, so as to allow the county clerk of said Franklin county to proceed at once, and annually thereafter, to extend the taxes of the said county, and the collecter to collect the same for the payment of the said interest coupons as they annually mature, and the principal of said bonds when due, and that the State treasurer be allowed and ordered to at once pay the coupons of oratrix-' bonds, now past due, out of the money now in his hands belonging to Franklin county, or in case they are not paid that she may have judgment therefor, with interest; and that the said State treasurer be allowed annually thereafter to pay the said coupons for oratrix-' bonds as they mature, and the principal when due,
234 without any further interference from the said county of Franklin, or of any one whomsoever, as provided by the terms of said act of the Legislature of Illinois, approved February 22nd, 1861, under which said bonds are registered in the office of the State auditor, and that you will grant unto your oratrix such other and further relief as to your honors may seem meet, and she will ever pray, etc.

SARAH B. BRUYN,
By CRATTY BROS. & ULRICH,
Her Solicitors.

STATE OF ILLINOIS, }
County of Peoria, } ss:

Fannie S. Steele, of said county, being first duly sworn, on *his* oath says: That *he* has heard read the foregoing cross-bill of Sarah B. Bruyn and knows the contents thereof, and knows the same to be true in substance and fact, except as to those things on information and belief, and as to those *he* believes them to be true.

FANNIE S. STEELE.

Subscribed and sworn to before me this 3rd day of January, A. D. 1882.

[L. S.] NICHOLAS ULRICH,
Notary Public.

(Endorsed:) Filed February 7, 1882. J. A. Jones, clerk.

235 *Petition of George W. Steele to be Made Party Defendant.*

In the United States Circuit Court for the Southern District of Illinois. To the January Term, 1882.

To the Honorable Thomas Drummond, judge of the said court, in chancery sitting:

Your petitioner, George W. Steele, respectfully shows unto your honor that he is a resident of the county of Peoria, State of Illinois, and has been a resident of said State of Illinois for many years.

That at the October term, A. D. 1880, of the Franklin county circuit court, and on the 27th day of October, A. D. 1880, a final decree was passed and entered of record in said court in a certain cause therein pending, wherein the county of Franklin was complainant and the Belleville and Eldorado Railroad Company, Charles A. Aken, county clerk of Franklin County, Illinois; W. D. Seeber, sheriff of Franklin County, Illinois; Thomas B. Needles, auditor of public accounts of the State of Illinois; J. C. Smith, treasurer of the State of Illinois; W. Bayard Cutting, James Hill, William
236 H. Nye, James M. Warren, and the unknown holders of one hundred and forty-nine bonds, of the denomination of one thousand dollars each, issued by Franklin county, in the State of Illinois, in payment of subscription to the Belleville and Eldorado Railroad Company, were the defendants.

That your petitioner was at and before the commencement of this suit and now is the holder and owner of one of the bonds of said Franklin county, numbered ninety-eight (98), for the sum of one thousand dollars, issued to the Belleville and Eldorado Railroad Company, which bond is and was a part of the subject-matter of litigation in this suit, and in the decree rendered in said suit, and petitioner was designated and described in the bill of complaint filed, and in the proceedings had and the decree obtained therein as "the unknown holders of one hundred and forty-nine bonds, of the denomination of one thousand dollars each, issued by Franklin county, in the State of Illinois." That your petitioner never was within the jurisdiction of the said circuit court of Franklin
237 county, nor of this court, before the presentation of this petition, having never been summoned in the aforesaid cause, or been served with a copy of the bill of complaint filed therein, nor has he ever received any notice in writing of the commencement or pendency of said cause, or the rendition of said decree, nor has he ever before appeared in this cause by petition, plea, or otherwise, nor been a party in any way to said action, nor has any decree ever been rendered against your petitioner, except as "one of the unknown holders of said bonds," &c.

Your petitioner therefore asks that he may be heard touching the matter of litigation in this cause, and of the decree rendered therein; that he may be allowed to appear herein and answer the bill of complaint heretofore filed, and that his name be inserted as defendant in place of "the unknown holders of the said bonds," &c.; and petioner here and now agrees to pay all reasonable costs and expenses

that may be taxed against him, but he submits that no costs
238 should be taxed against him by reason of the granting of the prayer of this petition.

GEO. W. STEELE.

CRATTY BROS. & ULRICH,
Solicitors for Petitioner.

STATE OF ILLINOIS, }
County of Peoria, } ss:

George W. Steele, of said county, being first duly sworn, on his oath says that he has heard read the foregoing petition and knows the contents thereof, and knows them to be true, in substance and in fact, as he verily believes.

GEO. W. STEELE.

Subscribed and sworn to before me this 3d day of January, A. D. 1882.

[L. S.] NICHOLAS ULRICH,
Notary Public.

(Indorsed:) Filed February 7, 1882. J. A. Jones, clerk.

239 *Answer of George W. Steele.*

In the United States Circuit Court for the Southern District of Illinois. In Chancery.

THE COUNTY OF FRANKLIN, ILLINOIS,
vs.
THE BELLEVILLE & ELDORADO RAILROAD COMPANY, CHARLES A. AKEN, and Others.

The answer of George W. Steele to the bill of complaint filed herein by the County of Franklin.

This defendant, for answer to the said bill of complaint, or to so much of it as he is advised it is necessary for him to make answer unto, answering, says that at and before the filing of the said bill he we was, and still is, the *bona fide* holder and owner of one certain bond of said Franklin county; that he purchased the said bond for a valuable consideration, in the due course of business, as an investment; that he owns one of the said bonds for the sum of one thousand dollars, numbered ninety-eight (98), on which bond there is interest due from the first day of July, 1880, at the rate of eight per cent. per annum, according to certain interest coupons thereto attached; that the said bond was purchased by this defendant in good faith, for a valuable consideration, and without any
240 notice of any defense thereto, either in law or in equity, and before the commencement of this suit, and before the said bond was due by the terms thereof, the interest coupons numbered seven (7), eight (8), and nine (9), attached to the said bond, each for the sum of forty-dollars, and due, respectively, January 1st, 1881, and July 1st, 1881, and January 1st, 1882, and still due and

unpaid the said county of Franklin, though often requested so to do, having refused to pay them; that there is due on the principal and interest of this defendant's one bond, to January first, 1882, the sum of eleven hundred and twenty dollars.

This defendant, further answering, says that he has read the bill of complaint herein filed by the county of Franklin, and all the charges and allegations therein and the exhibits thereto attached, and that he has carefully read the answer of the German Savings Bank of Davenport, Iowa, one of the defendants, filed in this cause in the circuit court of Franklin county on the twenty-seventh (27th) day of October, 1881, while this cause was still pending in that court, and he is satisfied that the answer of the said German Savings Bank is a full and true answer to the said bill of
241 complaint, and to each and every of the charges and allegations therein contained, and as full an answer to said bill as could be made by this defendant, or as he is advised it is necessary for him to make, and he therefore makes and adopts the said answer of the said German Savings Bank of Davenport, and each and every part thereof, so far as the same is or can be made applicable, as his answer, the same as though copied therein in full, and that the same may be considered as the answer of this defendant to the said bill of complaint the same as though written out herein in full and signed by him, and he asks this court to so consider the said answer.

Wherefore he prays that as to the bond and coupons of Franklin county held by him, numbered ninety-eight (98), the bill of complaint may be dismissed for want of equity, as there is no defense to said bonds, either in law or equity, and that the injunction be dissolved and held for nought, so far as it affects him or his bond and coupons, and that he be hence dismissed, with his reasonable costs in this behalf most wrongfully sustained.

GEO. W. STEELE.

CRATTY BROS. & ULRICH,
Solicitor- for Def't.

242 STATE OF ILLINOIS, } ss:
County of Peoria, }

George W. Steele, of said county, being first duly sworn, on his oath says that he has heard read the above answer of George W. Steele, also that part of the answer of the German Savings Bank adopted as part of this answer, and knows the contents thereof, and that the same are true in substance and in fact, except those matters and things stated upon information and belief, and as to them he believes them to be true.

GEO. W. STEELE.

Subscribed and sworn to before me this 3rd day of January, A. D. 1882.

[L. S.] NICHOLAS ULRICH,
Notary Public.

(Indorsed:) Filed February 7, 1882. J. A. Jones, clerk.

243 *Cross-Bill of George W. Steele.*

In the United States Circuit Court for the Southern District of Illinois. To the January Term, 1882. In Chancery.

THE COUNTY OF FRANLIN
vs.
THE BELLEVILLE AND ELDORADO RAILROAD COMPANY, CHARLES A. AIKEN, and Others.

GEORGE H. STEELE
vs.
THE COUNTY OF FRANKLIN, ILLINOIS, CHARLES A. AKEN, County Clerk of Franklin County, Illinois; W. D. Seeber, Sheriff and Collector of Franklin County, Illinois; Edward Rutz, State Treasurer of the State of Illinois; Charles B. Swiggert, Auditor of Public Accounts of the State of Illinois. } Cross-bill.

For injunction.

To the Honorable Thomas Drummond, judge of the said court, in chancery sitting:

Your orator, George W. Steele, respectfully represents unto
244 your honor that he is a resident of Peoria, in the county of Peoria, and State of Illinois, and has been for many years last past; that he was made defendant in this cause by the name and designation of "the unknown holders of one hundred and forty-nine bonds of the denomination of one thousand dollars each, issued by Franklin county, Illinois;" that upon petition of orator to this court he has been made party defendant in this cause, and has filed his answer to the original bill of complaint, to which original bill of complaint and his answer thereto he respectfully refers the court for full infomation as to the subject-matter of litigation in this case and the rights and equities of your orator therein, and asks leave of the court to make the said original bill of complaint and the answer of orator and the answer of the German Savings Bank of Davenport a part of his cross-bill, so far as may be pertinent or proper for the purposes of this cross-bill, and to obtain the relief herein prayed for.

Your orator further shows unto you honor that he holds and
245 owns one certain bond of the said County of Franklin that is a part of the subject-matter of litigation in this cause, in said original bill described, numbered ninety-eight (98); that he purchased the said bond in the due course of business for a full, valuable consideration, and he avers that he purchased it before the commencement of this suit, and without any notice whatever of any defense, or pretended defense, or objection to the said bond on the part of any one, as to its validity or regularity.

He further shows that he was never served with any summons in this cause, or any written or printed notice of any kind prior to the purchase of said bond, giving him any intimation that there was any

objection or defense to the validity of said bond; that the said bond was not then and is not now due, and that he was an innocent purchaser and holder thereof before maturity.

Your orator further avers and charges that the said bond so owned and held by him was legally and regularly issued by the said County of Franklin under and by virue of an act of the Legislature of the State of Illinois, approved February 22nd, 1861, which
246 act, as your orator avers, was regular and valid in all particulars, and fully authorized and empowered the said County of Franklin to vote for and issue the said bond now held by him, which bond, when issued, would be, and as orator charges is now, a valid, legal, and existing obligation against the said County of Franklin.

He further avers and charges that the said county did so issue the said bonds as authorized and voted, and did deliver them to *bona fide* purchasers thereof for value; that said county received a valuable consideration for said bonds so issued, and did so deliver them without objection or notice of defect or defense before the said bonds were due, and said bond so came into orator's hands as an innocent purchaser without notice. The said bonds purport on their face to be regularly and legally authorized and issued by the said county under and by virtue of the said act of February 22nd, 1861, and orator charges that the said county is now estopped from setting up or urging any defense or objection to said bonds.

247 Your orator further shows that the said bonds draw interest at the rate of eight per cent. per annum, payable semi-annually, as per certain interest coupons attached thereto, each for the sum of forty dollars, due respectively January first and July first of each year; that there is now due and unpaid on the one bond held and owned by orator the interest coupons maturing January first, 1881, July 1st, 1881, and January first, 1882, each for the sum of forty dollars, making a total amount due on the said bond January first, 1882, for interest of one hundred and twenty dollars, which sum is still due and unpaid; that he is justly entitled to interest on the said coupons from their maturity at legal rates.

Orator further avers that the treasurer of the State of Illinois holds in his hands a large amount of money belonging to the county of Franklin, that was raised and placed in his hands for the especial purpose of paying the interest on the bond of your orator, with others of the same issue.

Your orator therefore prays this honorable court to take cognizance of the matters and things as herein and in said original bill
248 and said answer alleged, and of his rights and equities in the premises, and grant unto him the relief sought for, and to that end he makes the said "county of Franklin, Charles A. Aken, county clerk of Franklin county; W. D. Seeber, sheriff and collector of Franklin county; Edward Rutz, treasurer of the State of Illinois; Charles P. Swiggert, auditor of public accounts of the State of Illinois," defendants to this cross-bill, and asks that they be required to appear and answer the same, but not under oath (the oath being hereby waived), and that the injunction heretofore granted in this case against

the State treasurer, enjoining him from paying the interest coupons, held by and belonging to your orator's said bond ninety-eight (98), be at once dissolved, and the said treasurer be ordered to pay the said past-due coupons, and interest thereon, to your orator, and that upon a hearing hereof a decree may be rendered by this court finding that the said bond and coupons numbered as above are a legal, valid, regular, and binding obligation of said county of Franklin, and that the same shall be fully paid as they mature, both principal and interest;
249 that the injunction be modified and wholly dissolved as to your orator's said bond, so as to allow the county clerk of said Franklin county to proceed at once, and annually thereafter, to extend the taxes of the said county, and the collector to collect the same for the payment of the said interest coupons as they annually mature, and the principal of the said bond when due, and that the State treasurer be allowed and ordered to at once pay the coupons of orator's bond, now past due, out of the money now in his hands belonging to Franklin county, or, in case they are not paid, that he may have judgment therefor with interest, and that the said State treasurer be allowed annually thereafter to pay the said coupons on orator's bond as they mature, and the principal, when due, without any further interference from the said county of Franklin, or of any one whomsoever, as provided by the terms of said act of the Legislature of Illinois, approved February 22nd, 1861, under which
250 said bond is registered in the office of the State auditor, and that you will grant unto your orator such other and further relief as to your honors may seem meet, and he will ever pray, etc.

GEO. W. STEELE.

CRATTY BROS. & ULRICH,
Solicitors for Orator.

STATE OF ILLINOIS, } ss:
County of Peoria, }

George W. Steele, of said county, being first duly sworn, on his oath says that he has heard read the foregoing cross-bill of George W. Steele, and knows the contents thereof, and knows the same to be true in substance and fact, except to those things stated on information and belief, and as to those he believes them to be true.

GEO. W. STEELE.

Subscribed and sworn to before me this 3rd day of January, A. D. 1882.

[L. S.] NICHOLAS ULRICH,
Notary Public.

(Indorsed:) Filed February 7, h182. J. A. Jones, clerk.

251 *Petition of John Graham to be Made Party Defendant.*

In the United States Circuit Court for the Southern District of Illinois. To the January Term, 1882.

To the Honorable Thomas Drummond, judge of the said court, in chancery sitting:

Your petitioner, John Graham, respectfully shows unto your honor that he is a resident of the county of Peoria and State of Illinois, and has been a resident of said State of Illinois for many years; that at the October term, A. D. 1880, of the Franklin county circuit court, and on the 27th day of October, A. D. 1880, a final decree was passed and entered of record in said court in a certain cause therein pending, wherein The County of Franklin was complainant and The Belleville and Eldorado Railroad Company, Charles A. Aken, county clerk of Franklin county, Illinois; W. D. Seeber, sheriff of Franklin county, Illinois; Thomas B. Needles, auditor of public accounts of the State of Illinois; J. C. Smith, treasurer of the State of Illinois; W. Bayard Cutting, James Hill, William H. Nye, James M. Warren, and the unknown holders of one hundred and
252 forty-nine bonds of the denomination of one thousand dollars each, issued by Franklin county, in the State of Illinois, in payment of subscription to the Belleville and Eldorado Railroad Company, were the defendants. That your petitioner was, at and before the commencement of this suit, and now is, the holder and owner of one of the bonds of said Franklin county, numbered nineteen (19), for the sum of one thousand dollars, issued to the Belleville and Eldorado Railroad Company, which bond is and was a part of the subject-matter of litigation in this suit, and in the decree rendered in said suit, and petitioner was designated and described in the bill of complaint filed and in the proceedings had, and the decree obtained therein, as "the unknown holders of one hundred and forty-nine bonds, of the denomination of one thousand dollars each, issued by Franklin county, in the State of Illinois."

That your petitioner never was within the jurisdiction of the said circuit court of Franklin county, nor of this court, before the presentation of this petition, having never been summoned in the aforesaid cause, or being served with a copy of the bill of complaint filed therein, nor has he ever received any notice in writing of the
253 commencement or pendency of said cause, or the rendition of said decree, nor has he ever before appeared in this cause by petition, plea, or otherwise, nor been a party in any way to said action, nor has any decree ever been rendered against your petitioner except as "one of the unknown holders of said bonds," &c.

Your petitioner, therefore, asks that he may be heard touching the matter of litigation in this cause, and of the decree rendered therein, that he may be allowed to appear herein and answer the bill of complaint heretofore filed, and that his name be inserted as defendant in place of "the unknown holders of the said bonds," &c., and petitioner here and now agrees to pay all reasonable costs and expenses that may be taxed against him, but he submits that no

costs should be taxed against him by reason of the granting of the prayer of this petition.

JOHN GRAHAM.

CRATTY BROS. & ULRICH,
Solicitors for Petitioner.

254 STATE OF ILLINOIS, } ss:
County of Peoria, }

Nicholas Ulrich, of said county, being first duly sworn, on his oath says: That he has heard read the foregoing petition, and knows the contents thereof, and knows them to be true in substance and in fact, as he verily believes.

NICHOLAS ULRICH.

Subscribed and sworn to before me this 18th day of January, A. D. 1882.

[L. S.] SAMUEL C. GALLUP,
Notary Public.

(Indorsed:) Filed February 7, 1882. J. A. Jones, clerk.

255 *Answer of John Graham.*

In the United States Circuit Court for the Southern District of Illinois. In Chancery.

THE COUNTY OF FRANKLIN, ILLINOIS,
vs.
THE BELLVILLE & ELDORADO RAILROAD COMPANY, CHARLES A. AKEN, and Others.

The answer of John Graham to the bill of complaint filed herein by the County of Franklin.

This defendant, for answer to the said bill of complaint, or to so much of it as he is advised it is necessary for him to make answer unto, answering, says: That at and before the filing of the said bill he was and still is the *bona fide* holder and owner of one certain bond of said Franklin county; that he purchased the said bond for a valuable consideration, in the due course of business, as an investment; that he owns one of the said bonds, for the sum of one thousand dollars, numbered nineteen (19), on which bond there is interest due from the first day of July, 1880, at the rate of eight per cent. per annum, according to certain interest coupons thereto attached; that

256 the said bond was purchased by this defendant in good faith for a valuable consideration, and without any notice of any defense thereto, either in law or in equity, and before the commencement of this suit, and before the said bond was due by the terms thereof, the interest coupons numbered seven (7), eight (8), and nine (9) attached to the said bond, each for the sum of forty dollars and due respectively, January 1st and July 1st, 1881, and January 1st, 1882, and still due and unpaid, the said county of Franklin, though often requested so to do, having refused to pay them; that there is due on the principal and interest of this defend-

ant's one bond to January 1st, 1882, the sum of eleven hundred and twenty dollars.

This defendant, further answering, says that he has read the bill of complaint herein filed by the County of Franklin, and all the charges and allegations therein, and the exhibits *and* thereto attached; and that he has carefully read the answer of the German Savings Bank of Davenport, Iowa, one of the defendants, filed in this cause in the circuit court of Franklin county on the twenty-seventh (27th) day of October, 1881, while this cause was still pending in
257 that court, and he is satisfied that the answer of the said German Savings Bank is a full and true answer to the said bill of complaint, and to each and every of the charges and allegations therein contained, and as full an answer to said bill as could be made by this defendant, or as he is advised it is necessary for him to make; and he therefore makes and adopts the said answer of the said German Savings Bank of Davenport, and each and every part thereof, so far as the same is or can be made applicable as his answer, the same as though copied herein in full, and that the same may be considered as the answer of this defendant to the said bill of complaint, the same as though written out herein in full and signed by him, and he asks this court to so consider the said answer.

Wherefore he prays that as to the bond and coupons of Franklin county held by him, numbered nineteen (19), the bill of complaint may be dismissed for want of equity, as there is no defense to said bonds, either in law or equity, and that the injunction be dissolved and held for naught, so far as it affects him or his
258 bond and coupons, and that he may be hence dismissed with his reasonable costs in this behalf most wrongfully sustained.

JOHN GRAHAM.

CRATTY BROS. & ULRICH,
Solicitors for Def't.

STATE OF ILLINOIS, }
County of Peoria, } ss:

Nicholas Ulrich, on behalf of said defendant, being first duly sworn, on his oath says: That he has read the above answer of John Graham; also that part of the answer of The German Savings Bank of Davenport adopted as part of this answer, and knows the contents thereof, and that the same are true in substance and in fact, except those matters and things stated upon information and belief, and as to them he believes them to be true.

NICHOLAS ULRICH.

Subscribed and sworn to before me this 18th day of January, 1882.

[L. S.] SAMUEL C. GALLUP,
Notary Public.

(Indorsed:) Filed February 7, 1882. J. A. Jones, clerk.

259 *Cross-Bill of John Graham.*

In the United States Circuit Court for the Southern District of Illinois. To the January Term, 1882. In Chancery.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE AND ELDORADO RAILROAD COMPANY, CHARLES A. AKEN, and Others.

JOHN GRAHAM
vs.
THE COUNTY OF FRANKLIN, ILLINOIS; CHARLES A. Aken, County Clerk of Franklin County, Illinois; W. D. Seeber, Sheriff and Collector of Franklin County, Illinois; Edward Rutz, State Treasurer of the State of Illinois; Charles B. Swiggert, Auditor of Public Accounts of the State of Illinois.

Cross bill for relief.

For injunction.

To the Honorable Thomas Drummond, judge of the said court, in chancery sitting:

Your orator, John Graham, respectfully represents unto
260 your honor that he is a resident of Peoria, in the county of Peoria, and State of Illinois, and has been for many years last past; that he was made defendant in this cause by the name and designation of the "unknown holders of one hundred and forty-nine bonds, of the denomination of one thousand dollars each, issued by Franklin county, Illinois;" that upon petition of orator to this court he has been made party defendant in this cause, and has filed his answer to the original bill of complaint, to which original bill of complaint and his answer thereto he respectfully refers the court for fuller information as to the subject-matter of litigation in this cause and the rights and equities of your orator therein, and asks leave of court to make the said original bill of complaint, and the answer of orator, and the answer of the German Savings Bank of Davenport, a part of his cross-bill, so far as may be pertinent or proper for the purposes of this cross-bill and to obtain the relief herein prayed for.

Your orator further shows unto your honor that he holds and owns one certain bond of the said county of Franklin that is a part of the subject-matter of litigation in this cause, in said orig-
261 inal bill described, numbered nineteen (19); that he purchased the said bond in the due course of business, for a full valuable consideration, and he avers that he purchased it before the commencement of this suit, and without any due notice whatever of any defense, or pretended defense, or objection to the said bond on the part of any one as to its validity or regularity. He further shows that he was never served with any summons in this cause, or any written or printed notice of any kind prior to the purchase of said bond, giving him any intimation that there was any objection or defense to the validity of said bond; that the said bond was not

then and is not now due, and that he was an innocent purchaser and holder thereof before maturity.

Your orator further avers and charges that the said bonds so owned and held by him was legally and regularly issued by the said county of Franklin, under and by virtue of the State of Illinos, approved November 6th, 1849, which act, as orator avers, was regularly and valid in all particulars, and fully authorized and empowered the said county of Franklin to vote for and issue the
262 said bond now held by him, which bond when issued would be, and as orator charges is now, a valid, legal, and existing obligation against the said county of Franklin.

He further avers and charges that the said county did so issue the said bonds as authorized and voted, and did deliver them to *bona fide* purchasers thereof for value; that said county received a valuable consideration for said bonds so issued, and did so deliver them, without objection or notice of defect or defense, before the said bonds were due, and said bond so came into orator's hands as an innocent purchaser, without notice. The said bonds purport on their face to be regularly and legally authorized and issued by the said county, under and by virtue of the said act of November 6th, 1849, and orator charges that the said county is now estopped from setting up or urging and defense or objection to said bonds.

Your orator further shows that the said bonds draw interest at the rate of eight per cent. per annum, payable semi-annually, as per certain interest coupons attached thereto, each for the sum of forty dollars, due, respectively, January first and July first of each year; that there is now due and unpaid on the one bond held and
263 owned by orator the interest coupons maturing January first, 1881, July first, 1881, and January first, 1882, each for the sum of forty dollars, making a total amount due on said bond January first, 1882, for interest of one hundred and twenty dollars, which sum is still due and unpaid; that he is justly entitled to interest on the said coupons from their maturity at legal rates.

Orator further avers that the treasurer of the State of Illinois holds in his hands a large amount of money belonging to the county of Franklin that was raised and placed in his hands for the especial purpose of paying the interest on the bond of your orator with others of the same issue.

Your orator therefore prays this honorable court to take cognizance of the matters and things as herein and in said original bill and said answer alleged, and of his rights and equities in the premises, and grant unto him the relief sought for; and to that end he make- the said "County of Franklin," Charles A. Akin, county clerk of Franklin; W. D. Seeber, sheriff and collector of Franklin county; Edward Rutz, treasurer of the State of Illinois; Charles B. Swiggert, auditor of public accounts of the State of
264 Illinois, defendants to this cross-bill, and asks that they be required to appear and answer the same, but not under oath (the oath being hereby waived), and that the injunction heretofore granted in this case against the State treasurer, enjoining him from paying the interest coupons held by and belonging to your

orator's said bond nineteen (19) be at once dissolved, and the said treasurer be ordered to pay the said past-due coupons and interest thereon to your orator, and that upon a hearing hereof a decree may be rendered by this court finding that the said bond and coupons numbered as above are a legal, valid, regular, and binding obligation of said county of Franklin, and that the same shall be fully paid as they mature, both principal and interest; that the injunction be modified and wholly dissolved as to your orator's said bond, so as to allow the county clerk of said Franklin county to proceed at once, and annually thereafter, to extend the taxes of the said county, and the collector to collect the same for the payment
265 of the said interest coupons as they annually mature, and the principal of the said bond when due, and that the State treasurer be allowed and ordered to at once pay the coupons of orator's bond, now past due, out of the money now in his hands belonging to Franklin county, or in case they are not paid, that he may have judgment therefor with interest, and that the said State treasurer be allowed annually thereafter to pay the said coupons on orator's bond as they mature, and the principal when due, without any further interference from the said county of Franklin, or of any one whomsoever, as provided by the terms of said act of the Legislature of Illinois, approved November 6th, 1849, under which said bond is registered in the office of the State auditor, and that you will grant unto your orator such other and further relief as to your honor may seem meet; and he will ever pray, &c.

JOHN GRAHAM,
By CRATTY BROS. & ULRICH,
Solicitors for Orator.

266 UNITED STATES OF AMERICA, }
State of Illinois, County of Peoria, } *ss:*

Nicholas Ulrich, of said county, being first duly sworn, on his oath says: That he has heard read the foregoing cross-bill of John Graham, and knows the contents thereof, and knows the same to be true in substance and in fact, except to those things stated on information and belief, and as to those he believes them to be true.

NICHOLAS ULRICH.

Subscribed and sworn to before me this 18th day of January, A. D. 1882.

[L. S.] SAMUEL C. GALLUP,
Notary Public.

(Indorsed:) Filed February 7, 1882. J. A. Jones, clerk.

267 *Petition of Solomon Rothschild and Benjamin Rothschild to be Made Parties Defendant.*

In the United States Circuit Court, District of Illinois. To the January Term, 1882.

To the Honorable T. Drummond, judge of the said court, in chancery sitting:

Your petitioner-, Solomon Rothschild and Benjamin Rothschild,

partners, doing business under the firm name of Rothschild Bros., respectfully show unto your honor that they are residents of the State of Indiana, and are there doing business as bankers. That at the October term, A. D. 1880, of the Franklin county circuit court, and on the 27th day of October, A. D. 1880, a final decree was passed and entered of record in said court in a certain cause therein pending, wherein The County of Franklin was complainant and The Belleville and Eldorado Railroad Company, Charles A. Akin, county clerk of Franklin county; Illinois, W. D. Seeber, sheriff of Franklin county, Illinois; Thomas B. Needles, auditor of public accounts of the State of Illinois; J. C. Smith, treasurer of the State of Illinois; W. Bayard Cutting, James Hill, William H. Nye, James M. Warren, and the unknown holders of one hundred and forty-
nine bonds, of the denomination of one thousand dollars
268 each, issued by Franklin county, in the State of Illinois, in
payment of subscription to the Belleville and Eldorado Railroad Company, were the defendants; that your petitioners were at and before the commencement of this suit, and now are, the holders and owners of ten of the bonds of said Franklin county, numbered respectively nine (9), thirteen (13), eighteen (18), twenty (20), twenty-one (21), forty-nine (49), fifty (50), fifty-one (51), fifty-two (52), and fifty-three (53), each for the sum of one thousand dollars, issued to the Belleville and Eldorado Railroad Company, which bonds were, and are, a part of the subject-matter of litigation in this suit, and in the decree in said suit rendered, and these petitioners were designated and described in the bill of complaint filed, and in the proceedings had, and the decree obtained herein, as "the unknown holders of said bonds of said county," &c.; that your petitioners never were within the jurisdiction of the said circuit court of Franklin county, nor of this court, before the presentation of this petition,
having never been summoned in the aforesaid cause, or been
269 served with a copy of the bill of complaint filed therein; nor
have they, or either of them, ever received any notice in writing of the commencement or pendency of said cause, or of the rendition of said decree, nor have they ever before appeared in this cause by petition, plea, or otherwise, nor been a party in any way to the said action, nor has any decree ever been rendered against your petitioners except as one of "the unknown holders and owners of said bonds of said county," etc.

Your petitioners therefore ask that they be heard touching the the matter of the litigation in this cause, and of the decree rendered therein, that they may be allowed to appear herein and answer the bill of complaint heretofore filed, and that their names be inserted as defendants in place of "the unknown holders of the said bonds of said county;" and petitioners here and now agree to pay all reasonable costs and expenses that may be taxed against them, but

they submit that no costs should be taxed against them by reason of the granting of the prayer of this petition.

SOLOMON ROTHSCHILD,
270 BENJAMIN ROTHSCHILD,
By ALDRICH & BARRETT,
Their Sol'rs.

CRATTY BROS. & ULRICH,
Of Counsel.

STATE OF INDIANA, } ss:
County of Allen, }

Solomon Rothschild, of said county, being first duly sworn, on his oath says: That he has heard read the foregoing petition, and knows the contents thereof, and knows them to be true in substance and in fact, and he verily believes.

SOLOMON ROTHCHILD.

Subscribed and sworn to before me this second day of January, A. D. 1882.

[L. S.] F. E. BOWEN,
Notary Public.

(Indorsed:) Filed February 7, 1882. J. A. Jones, clerk.

Answer of Solomon Rothschild and Benjamin Rothschild.

271 In the United States Circuit Court for the District of Illinois.
In Chancery.

THE COUNTY OF FRANKLIN, ILLINOIS,
vs.
THE BELLEVILLE AND ELDORADO RAILROAD COMPANY, CHARLES A. AKIN, and Others.

The answer of Solomon Rothschild and Benjamin Rothschild to the bill of complaint filed herein by the County of Franklin.

These defendants, for answer to the said bill of complaint, or to so much of it as they are advised it is necessary for them to make answer unto, say: That at and before the filing of the said bill they were and still are the *bona fida* owners and holders of certain of the bonds of said Franklin county; that they purchased the said bonds for a valuable consideration in the due course of their trade as bankers; that defendants own ten of the said bonds, for the sum of one thousand dollars,
272 each, numbered respectively nine (9), thirteen (13), eighteen (18), twenty (20), twenty-one (21), forty-nine (49), fifty (50), fifty-one (51), fifty-two (52), and fifty-three (53), on which bonds there is interest due from the first day of July, 1880, at the rate of eight per cent. per annum, according to certain interest coupons thereto attached; that all of said bonds were purchased by defendants in good faith for a valuable consideration, and without any notice of any defense thereto, either in law or in equity, and before the commencement of this suit, and before the said bonds, or any of them, were

due by the terms thereof, the interest coupons numbered seven (7), eight (8), and nine (9) attached to those bonds, each for the sum of forty dollars, and due respectively January first and July first, 1881, and January first, 1882, are still due and unpaid, the said county of Franklin, though often requested so to do, having refused to pay them; that there is due on the principal and interest of the
273 defendants' ten bonds to January first, 1882, the sum of eleven hundred and twenty dollars on each bond.

The defendants, further answering, say that they have read the bill of complaint herein filed by the County of Franklin, and all the charges and allegations therein, and the exhibits thereto attached, and they have also carefully read the answer of the German Savings Bank of Davenport, Iowa, one of the defendants herein, filed in this cause in the circuit court of Franklin county on the twenty-seventh day of October, 1881, while this cause was still pending in that court, and these defendants are satisfied that the answer of the said German Savings bank is a full and true answer to the said bill of complaint, and to each and every of the charges and allegations therein contained, and as full an answer to said bill as could be made by these defendants, or as they are advised it is necessary for them to make, and they therefore make and adopt the said answer of the said German Savings Bank of Davenport, and each and every part thereof, so far as the same are or can be made applicable, as their an-
274 swer, and the answer of each of them, the same as though copied herein in full, and that the same may be considered as the answer of these defendants to the said bill of complaint the same as though written out herein in full and signed by these defendants, and they ask this court to so consider the said answer.

Wherefore these defendants pray that, as to themselves and the bonds and coupons of Franklin county held by them, numbered, respectively, nine (9), thirteen (13), eighteen (18), twenty (20), twenty-one (21), forty-nine (49), fifty (50), fifty-one (51), fifty-two (52), and fifty-three (53), the bill of complaint may be dismissed for want of equity, as there is no defense to said bonds, either in law or equity, and that the injunction be dissolved and held for nought, so far as it affects these defendants or their bonds and coupons, and that these defendants be hence dismissed, with their reasonable costs in this behalf most wrongfully sustained.

SOLOMON ROTHSCHILD,
BENJAMIN ROTHSCHILD,
By ALDRICH & BARRETT,
Their Solicitors.

CRATTY BROS. & ULRICH,
Of Counsel.

275 STATE OF INDIANA, } ss:
County of Allen, }

Solomon Rothschild and Benjamin Rothschild, of said county, being each first duly sworn, on his oath says: That he has heard read the above answer of Solomon Rothschild and Benjamin Rothschild,

and also that part of the answer of the German Savings Bank adopted as a part of this answer, and knows the contents thereof, and that the same are true in substance and in fact, except those matters and things stated upon information and belief, and as to those he believes them to be true.

SOLOMON ROTHSCHILD.
BENJAMIN ROTHSCHILD.

Subscribed and sworn to before me this second day of January, 1882.

[L. S.] F. E. BOWEN,
Notary Public.

(Indorsed:) Filed February 7, 1882. J. A. Jones, clerk.

276 *Cross-Bill of Solomon Rothschild and Benjamin Rothschild.*

In the United States Circuit Court for the Southern District of Illinois. To the January Term, 1882, In Chancery.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE AND ELDORADO RAILROAD COMPANY, CHARLES A. AKIN, and Others.

SOLOMON ROTHSCHILD and BENJAMIN ROTHSCHILD
vs.
THE COUNTY OF FRANKLIN, ILLINOIS; CHARLES A. AKIN, County Clerk of Franklin County, Illinois; W. D. Seeber, Sheriff and Collector of Franklin County, Illinois; Edward Rutz, State Treasurer of the State of Illinois; Charles B. Swiggert, Auditor of Public Accounts of the State of Illinois. } Cross-Bill.

For injunction.

To the honorable judge of the said court, in chancery sitting:

277 Your orators, Solomon Rothschild and Benjamin Rothschild, respectfully represent unto your honor that they are residents of Fort Wayne, State of Indiana, and have been for many years last past, and have been for many years there engaged in the clothing business, and were so engaged before and at the time of the commencement of this suit in the State court of Franklin county, Illinois, by the filing of the original bill of complaint herein; that they were made defendants in this cause by the name and designation of "the unknown holders of one hundred and forty-nine bonds of the denomination of one thousand dollars each, issued by Franklin county, Illinois;" that, upon petition of orators to this court, they have been made parties defendant in this cause, and have filed their answer to the original bill of complaint; to which original bill of complaint and the answer of these defendants they respectfully refer the court for full information as to the subject-matter of litigation in this case, and the rights and equities of your

orators therein, and ask leave of court to make the said original bill of complaint and the answer of orators and the answer of the
278 German Savings Bank of Davenport a part of this your orator's cross-bill, so far as the same may be pertinent or proper for the purposes of this cross-bill, and to obtain the relief herein prayed for.

Your orators further show unto your honor that they hold and own certain bonds of the said county of Franklin that are a part of the subject-matter of the litigation in this cause, in said original bill described, numbered respectively nine (9), thirteen (13), eighteen (18), twenty (20), twenty-one (21), forty-nine (49), fifty (50), fifty-one (51), fifty-two (52), and fifty-three (53); that they purchased the said bonds in the due course of their business as bankers for a full, valuable consideration, and orators aver that they purchased them before the commencement of this suit and without any notice whatever of any defense or pretended defense or objection to the said bond on the part of any one or as to their validity or regularity. They further show that they were never served with any summons in this case or any written or printed notice of any kind prior to the purchase of said bonds giving them any intimation that there was any objection or defense to the validity of said bonds;
279 that the said bonds were not then and are not now due, and that orators were innocent purchasers and holders thereof before maturity.

Your orators further aver and charge that the said bonds so owned and held by them were legally and regularly issued by the said county of Franklin under and by virtue of an act of the Legislature of the State of Illinois, approved February 22nd, 1861, which act orators aver was regular and valid in all particulars, and fully authorized and empowered the said county of Franklin to vote for and issue the said bonds now held by orators, which bonds when issued would be, and, as orator charges, are now, a valid, legal, and existing obligation against the said county of Franklin.

Your orators further aver and charge that the said county did so issue the said bonds as authorized and voted, and did deliver them to *bona fide* purchasers thereof for value; that said county received a valuable consideration for said bonds so issued, and did so deliver them, without objection or notice of defect or defense, before the said bonds were due, and they so came into orators' hands as innocent purchasers without notice.
280 The said bonds purport on their face to be regular and legally authorized and issued by the said county under and by virtue of the said act of February 22nd, 1861, and orators charge that the said county is now estopped from setting up or urging any defense or objection to said bonds.

Your orators further show that the said bonds draw interest at the rate of eight per cent. per annum, payable semi-annually, as per certain interest coupons attached thereto, each for the sum of forty dollars, due respectively January first and July first of each year; that there is due and unpaid on the ten bonds held and owned by orators the interest coupons maturing January first, 1881, July first,

1881, and January first, 1882, each for the sum of forty dollars, making a total amount of interest due on the said bonds January first, 1882, of twelve hundred dollars, which sum is still due and unpaid; that orators are justly entitled to interest on the said coupons from their maturity at legal rates.

281 Your orators further aver that the treasurer of the State of Illinois holds in his hands a large amount of money belonging to the county of Franklin that was raised and placed in his hands for these special purpose of paying the interest on the bonds of your orators, with others of the same issue, had he not been enjoined from so doing by the writ of injunction in this case.

Your orators therefore pray this honorable court to take cognizance of the matters and things as herein, and in said original bill and said answer alleged, and of orators' rights and equities in the premises, and grant unto them the relief sought for, and to that end they make "The said County of Franklin, Charles A. Aken, county clerk of Franklin county; W. D. Seeber, sheriff and collector of Franklin county; Edward Rutz, treasurer of the State of Illinois; Charles B. Swiggert, auditor of public accounts of the State of Illinois, defendants to this cross-bill, and ask that they be required to appear and answer the same, but not under oath (the oath being hereby

282 waived), and that the injunction heretofore granted in this case against the State treasurer, enjoining him from paying the interest coupons held by and belonging to your orators on the bonds numbered nine (9), thirteen (13), eighteen (18), twenty (20), twenty-one (21), forty-nine (49), fifty (50), fifty-one (51), fifty-two (52), and fifty-three (53) be at once dissolved, and the said treasurer be ordered to pay the said past-due coupons and interest thereon to your orators; and that upon a hearing thereof a decree may be rendered by this court finding that the said bonds and coupons, numbered as above, are a legal, valid, regular, and binding obligation of said county of Franklin, and that the same shall be fully paid as they mature, both principal and interest; that the injunction be modified and wholly dissolved as to your orators' said bonds, so as to allow the county clerk of said Franklin county to proceed at once, and annually thereafter, to extend and collect the taxes on the said county, and the collector to collect the taxes of said county for the payment of the said interest coupons as they annually mature, and the principal of said bonds when

283 due, and that the State treasurer be allowed and ordered to at once pay the coupons of orators' bonds now past due out of the money now in his hands belonging to Franklin Co., or, in case they are not paid, that they may have judgment therefor, with interest, and that the said State treasurer be allowed & ordered annually thereafter to pay the said coupons on orators' bonds as they mature, and the principal when due, without any further interference from the said county of Franklin, or of any one whomsoever, as provided by the terms of said act of the Legislature of Illinois, approved February 22nd, 1861, under which said bonds are registered in the office of the State auditor; and that you will grant unto your

orators such other and further relief as to your honors may seem meet; and they will ever pray, etc.

SOLOMON ROTHSCHILD,
BENJAMIN ROTHSCHILD,
By ALDRICH & BARRETT,
Their Solicitors.

CRATTY BROS. & ULRICH,
Of Counsel.

284 STATE OF INDIANA, } ss:
County of Allen, }

Solomon Rothschild and Benjamin Rothschild, of said county, being each first duly sworn, on his oath says: That he has heard read the foregoing cross-bill of Solomon Rothschild and Benjamin Rothschild, and knows the contents thereof, and knows the same to be true in substance and in fact, except as to those things stated on information and belief, and as to those he believes them to be true.

SOLOMON ROTHSCHILD.
BENJAMIN ROTHSCHILD.

Subscribed and sworn to before me, this 2nd day of January, 1882.

[L. S.] F. E. BOWEN,
Notary Public.

(Indorsed:) Filed February 7, 1882. J. A. Jones, clerk.

285 And afterwards, to wit, on the 28th day of March, in the year last aforesaid, came Jonathan S. Jaquess, by his solicitors, and filed his petition to be made party defendant in said cause, which said petition is in the words and figures following, to wit:

Petition of Jonathan S. Jacquess to be Made Party Defendant.

In the Circuit Court of the United States for the Southern District of Illinois. Term 1882. In Equity.

In the Matter of THE COUNTY OF FRANKLIN
v.
THE BELLEVILLE & ELDORADO R. R., CHARLES A. AIKEN, County Clerk, & others, and the unknown holders of bonds issued by Franklin County, in the State of Illinois, in payment of subscription to the capital stock of the B. & E. R. R. Co.

To the honorable the judges of said court, sitting in chancery:

Your petitioner, Jonathan S. Jaquess, respectfully shows unto your honors that he is a citizen of and resident in the State of Indiana; that he was at the time this suit was commenced, and still is, a citizen of said State of Indiana, & is now the owner of one of the bonds issued by said Franklin county aforesaid for the sum
286 of one thousand dollors ($1,000.00); that said bond is numbered seven (7), and that in said suit above set out he is described as an unknown holder. Your petitioner says he has never

been summoned or served with process herein, and that this court has no jurisdiction over the person of your petitioner, nor has he ever had a copy of the bill of complaint herein, or had any notice served on him by mail or otherwise from Franklin Co., Ill's, whence this case was removed.

Your petitioner prays that he may be permitted to be made a party defendant in this action, to the end that justice may be done him; and will ever pray, &c.

JONATHAN S. JAQUESS.

DISTRICT OF INDIANA, }
City of Evansville, Vanderburgh County, } *ss:*

Jonathan S. Jaquess, on his oath, says: That the foregoing statements are true, as he verily believes; and that the statements made of his own knowledge are true.

JONATHAN S. JAQUESS.

Subscribed & sworn to before me this Jan'y 19, A. D. 1882.

[L. S.] JNO. G. WARTMANN,
N. P., Van. Co., Ind.

(Indorsed:) Filed March 28, 1882. J. A. Jones, clerk.

287 And afterwards, to wit, on Wednesday, the twenty-ninth day of March, in the term and year last aforesaid, the following proceedings were had in said court in said cause and entered of record, to wit:

Order Setting Cause for Hearing Before Full Bench.

COUNTY OF FRANKLIN
v.
BELLEVILLE & ELDORADO RAILROAD COMPANY *et al.* } In Chancery.

By consent of parties, by their solicitors, this cause is set for hearing before a full bench.

And afterwards, to wit, on the day and year last aforesaid, came the complainant in said cause, by its solicitors, and filed in the office of the clerk of said court its several replications to the separate answers of the defendants, Sarah B. Bruyn, George W. Steele, John Graham, Rothschild Brothers, and the German Savings Bank of Davenport, Iowa; and also its several separate answers to the several cross-bills of the *the* said defendants, Sarah B. Bruyn, George W. Steele, John Graham, and Rothschild Brothers, which said several replications and separate answers are respectively in the words and figures following, to wit:

288 *Replication to Separate Answer of Sarah B. Bruyn.*

In the Circuit Court of the United States for Southern District of Illinois. January Term, A. D. 1882. In Chancery.

THE COUNTY OF FRANKLIN

vs.

THE BELLEVILLE & ELDORADO RAILROAD COMPANY *et al.*

The replication of The County of Franklin, complainant, to the separate answer of Sarah B. Bruyn.

This repliant, saving and reserving unto itself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto says that it will aver and prove its said bill to be true, certain, and sufficient in the law to be answered unto, and that said answer of the defendant is uncertain, untrue, and insufficient to be replied unto by this repliant, without this that any other matter or thing whatsoever in the said answer contained material or effectual in law to be replied unto, confessed, and avoided, traversed, or denied is true; all which matters and things this repliant is and will be ready to aver and prove as this honorable court shall direct, and prays as in and by its said bill it has already prayed.

WM. J. ALLEN AND
THOS. J. LAYMAN.

(Indorsed:) Filed March 29, 1882. J. A. Jones, clerk.

289 *Replication to Separate Answer of George W. Steele:*

In the Circuit Court of the United States for Southern District of Illinois. January Term, A. D. 1882. In Chancery.

THE COUNTY OF FRANKLIN

vs.

THE BELLEVILLE & ELDORADO RAILROAD COMPANY *et al.*

The replication of The County of Franklin, complainant, to the separate answer of George W. Steele.

This repliant, saving and reserving unto himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto says that it will aver and prove its said bill to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the defendant is uncertain, untrue, and insufficient to be replied unto by this repliant, without this that any other matter or thing whatsoever in the said answer contained material or effectual in law to be replied unto, confessed, and avoided, traversed, or denied is true; all which matters and things this repliant is and will be ready to aver and prove as this

honorable court shall direct, and prays as in and by its original bill it has already prayed.

WM. J. ALLEN AND
THOS. J. LAYMAN,
Solicitors for Complainant.

(Indorsed:) Filed March 29, 1882. J. A. Jones, clerk.

290 *Replication to Separate Answer of John Graham.*

In the Circuit Court of the United States for Southern District of Illinois. January Term, A. D. 1882. In Chancery.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE AND ELDORADO RAILROAD COMPANY *et al.*

The replication of The County of Franklin, complainant, to the separate answer of John Graham.

This repliant, saving and reserving to itself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto says that it will aver and prove its said bill to be true, certain, and sufficient in law to be answered unto, and that the said answer of the defendant is uncertain, untrue, and insufficient to be replied unto by this repliant, without this that any other matter or thing whatsoever in the said answer contained material or effectual in law to be replied unto, confessed, and avoided, traversed or denied is true; all which matters and things this repliant is and will be ready to aver and prove as this honorable court shall direct, and prays as in and by its said bill it has already prayed.

WM. J. ALLEN AND
THOS. J. LAYMAN,
Solicitors for Complainant.

(Indorsed:) Filed March 29, 1882 J. A. Jones, clerk.

291 *Replication to Separate Answer of Solomon and Benjamin Rothschild.*

In the Circuit Court of the United States for the Southern District of Illinois. January Term, A. D. 1882. In Chancery.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE & ELDORADO RAILROAD COMPANY *et al.*

The replication of The County of Franklin, complainant, to the separate answer of Solomon Rothschild and Benjamin Rothschild.

This repliant, saving and reserving unto itself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto says that it will aver and prove its said bill to be true, certain, and sufficient in law to be answered unto, and that the said answer of the defendants is uncertain, untrue,

and insufficient to be replied unto by this repliant, without this that any other matter or thing whatsoever in the said answer contained material or effectual in law to be replied unto, confessed, and avoided, traversed or denied, is true; all which matters and things this repliant is and will be ready to aver and prove as this honorable court shall direct, and prays as in and by its said bill it has already prayed.

WM. J. ALLEN AND
THOS. J. LAYMAN,
Solicitors for Complainant.

(Indorsed:) Filed March 29, 1882. J. A. Jones, clerk.

292 *Replication to Separate Answer of the German Savings Bank of Davenport, Iowa.*

In the Circuit Court of the United States for the Southern District of Illinois. January Term, A D. 1882. In Chancery.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE AND ELDORADO RAILROAD COMPANY *et al.*

The replication of The County of Franklin, complainant, to the separate answer of The German's Saving-Bank of Davenport, Iowa, defendant.

This repliant, saving and reserving unto itself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto says that it will aver and prove its said bill to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by this repliant, without this that any other matter or thing whatsoever in the said answer contained material or effectual in law to be replied unto, confessed, and avoided, traversed or denied, is true; all of which matters and things this repliant is and will be ready to aver and prove as this honorable court shall direct, and prays as in and by its said bill it has already prayed.

WM. J. ALLEN AND
THOS. J. LAYMAN,
Solicitors for Complainant.

(Endorsed:) Filed March 29, 1882. J. A. Jones, clerk.

293 *Answer to Cross-Bill of Sarah B. Bruyn.*

In the Circuit Court of the United States for the Southern District of Illinois. January Term, A. D. 1882. In Chancery.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE & ELDORADO RAILROAD COMPANY *et al.*

The answer of The County of Franklin to the cross-bill of Sarah B. Bruyn, filed in this cause.

The said County of Franklin, for answer to said cross-bill, says

that said Sarah B. Bruyn, at the time of filing said original bill, and prior thereto, was not the *bona fide* holder or owner of any of the bonds mentioned in said original bill, and that she did not purchase any of said bonds for a valuable consideration and without any notice of any defense thereto, and that she does not own any of said bonds, and that she did not purchase any of them, as charged in said cross-bill.

Said County, further answering, says that all the averments in said original bill are true, and that said bonds were not law-
294 fully issued by said Franklin County, but that all of the bonds mentioned in said original bill were unlawfully issued, without any warrant of law, and that neither of them are valid or binding obligations against said county.

That said county did not issue said bonds to *bona fide* purchasers for value, and it did not receive a valuable consideration for any of said bonds.

That said Sarah B. Bruyn is not an innocent purchaser, without notice, as charged in said cross-bill.

And now, having fully answered, prays to be dismissed, with its reasonable costs and charges.

THE COUNTY OF FRANKLIN,
By WM. J. ALLEN & THOS. J. LAYMAN,
Its Solicitors.

(Indorsed:) Filed March 29, 1882. J. A. Jones, clerk.

Answer to Cross-Bill of George W. Steele.

In the Circuit Court of the United States for the Southern District of Illinois. January Term, A. D. 1882. In Chancery.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE & ELDORADO RAILROAD COMPANY *et al.*

The separate answer of the county of Franklin to the cross-
295 bill of George W. Steele filed in this cause.

The said County of Franklin, for answer to said cross-bill, says that all the averments in the original bill filed in this cause are true, and that said Steele is not the owner of any of the bonds mentioned in said original bill, and that he did not purchase any or either of said bonds before commencement of this suit, as charged in said cross-bill, but that if he purchased any or either of them before the commencement of this suit he purchased the same with full notice that all of said bonds were issued without any authority or warrant of law, and that each of them were and are void, and that he is not an innocent purchaser for value, as charged in said cross-bill.

That said county never had any power or authority to issue said bond mentioned in said cross-bill.

And now, having fully answered, prays to be dismissed, with its reasonable costs and charges.

THE COUNTY OF FRANKLIN,
By WM. J. ALLEN AND THOS. J. LAYMAN,
Its Solicitors.

(Indorsed:) Filed March 29, 1882. J. A. Jones, clerk.

296 *Answer to Cross-Bill of John Graham.*

In the Circuit Court of the United States for Southern District of Illinois. January Term, A. D. 1882. In Chancery.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE & ELDORADO RAILROAD COMPANY *et al.*

The separate answer of the County of Franklin to the cross-bill of John Graham filed in this cause.

The said County of Franklin, for answer to said cross-bill, says that all the averments in the original bill filed in this cause are true, and that said Graham does not own said bond mentioned in said cross-bill, nor any other bond mentioned in said original bill, and that he did not purchase said bond for a valuable consideration before the commencement of this suit without notice, as charged in said cross-bill, but that if he ever purchased said bond he knew at the time that it was void, and that he was not an innocent purchaser of said bond for value, as charged in said cross-bill.

297 That said county never had any power or authority to issue the bond mentioned in said cross-bill, and that said bond is not valid or binding on said county, and that said county never delivered any of said bonds, as charged in said cross-bill.

And now, having fully answered, prays to be dismissed, with its reasonable costs and charges.

THE COUNTY OF FRANKLIN,
By WM. J. ALLEN AND THOS. J. LYMAN,
I-s Solicitors.

(Indorsed:) Filed March 29, 1882. J. A. Jones, *Clerk.*

Answer to Cross-Bill of Solomon Rothschild and Benjamin Rothschild.

In the Circuit Court of the United States for the Southern District of Illinois. January Term, A. D. 1882. In Chancery.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE & ELDORADO RAILROAD COMPANY *et al.*

The separate answer of the County of Franklin to the cross-bill of Solomon Rothschild and Benjamin Rothschild filed in this cause.

The said County of Franklin, for answer to said cross-bill, says

that all the averments in the original bill filed in this cause
298 are true, and denies that the complainants in said cross-bill never purchased any of the bonds mentioned in said original bill for a valuable consideration before the commencement of this suit, but says that if they did purchase any of said bonds they purchased them with full notice that there was a valid defense to them, and that they were and are all void, and that they are not innocent holders of said bonds for value, as charged in said cross-bill.

That all of said bonds were unlawfully issued, and that said county had no power or lawful authority to issue the same, and that they are not valid or binding on said county.

That said county did not deliver any of said bonds to *bona fide* purchasers for value, nor receive valuable consideration for any or either of them.

And now, having fully answered, prays to be dismissed, with its reasonable costs and charges.

THE COUNTY OF FRANKLIN.
By WM. J. ALLEN AND THOS. J. LAYMAN,
Its Solicitors.

(Indorsed:) Filed March 29, 1882. J. A. Jones, clerk.

299 And afterwards, to wit, on the third day of April, in the year last aforesaid, came Samuel P. Wheeler, Esq., solicitor for certain of the defendants in said cause, and on behalf of said defendants filed in the office of the clerk of said court their motion to modify injunction, together with their petition in support thereof, which said motion and petition are respectively in the words and figures following, to wit:

Motion to Modify Injunction.

In the Circuit Court of the United States, Southern District of Illinois. January Term, A. D. 1882. In Equity.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE & ELDORADO RAILROAD COMPANY and Others.

Now come the People's Savings Bank of Evansville, Indiana; the German Savings Bank of Davenport, Iowa; Thomas E. Garvin, Anthony Réiz, George W. Steele, Sarah B. Bruyn, Solomon & Benjamin Rothschilds, composing the firm of Rotschilds Bro-., John Graham, defendants in the above-styled cause, and move the court to—

I. Dissolve or so modify the injunction heretofore granted
300 herein against the State treasurer of the State of Illinois as that the interest coupons held by the several defendants joining in this motion may be paid by him; and,

II. That the said State treasurer of the State of Illinois may be ordered and directed by this court to pay to the several parties joining in this motion, upon the presentation of the coupons described in their petition, hereto attached and made a part of this motion, to

the exclusion of any other coupons of same class, the respective amounts thereof.

SAMUEL P. WHEELER,
Sol'r for Def'ts Making this Motion.

Petition in Support of Motion to Modify Injunction.

In the Circuit Court of the United States, Southern District of Illinois. January Term, 1882. In Equity.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE & ELDORADO RAILROAD COMPANY and Others.

To the judge of said court, in chancery sitting:

Your petitioners, The People's Savings Bank of Evansville, Indiana; The German Savings Bank of Davenport, Iowa; Thomas E. Garvin, Anthony Reiz, J. L. Jaquess, Geo. W. Steele, Sarah B. Bruyn, Solomon & Benjamin Rothschild, firm [of] Rothschild & Bro.;
301 John Graham, would respectfully show that they are defendants in the aforesaid cause, or have filed their petitions to be made parties defendant, and expect a favorable order thereon before the hearing of this motion; that they are severally interested in the subject-matter of this suit and are severally the owners of bonds, as shown by a schedule hereto attached and made a part hereof, issued by the County of Franklin, the complainant aforesaid, to the defendant, The Belleville and Eldorado R. R. Company, and that they are the owners and holders, respectively, of the interest coupons overdue upon said bonds, as shown by the said schedule; that they were and are made parties defendant in said suit by the style of the "unknown holders" of said bonds; that they had no notice of the pendency of said suit until long after the rendition of the decree in the circuit court of Franklin county, Illinois, set out and shown by the record now on file in this case; that the said bonds were issued by The County of Franklin in payment for stock subscribed by said county to the Belleville and Eldorado R. R. Company, and duly registered in the office of the auditor of public accounts of the State of Illinois, and by virtue of the
302 statute the State of Illinois was and is made the custodian of all money collected by taxation for the payment of the interest upon said bonds, and such money is required by law to be paid over to the State treasurer of the State of Illinois, and, in the language of the statute, "is pledged and appropr-ated to the payment of the principal and interest of the registered bonds;" that the bonds of your petitioner, designated and shown in the schedule hereto attached, were duly registered in the office of the auditor of public accounts of the State of Illinois at the time of their issue; that by the said restraining order the State treasurer of the State of Illinois is enjoined from paying any interest upon the said registered bonds; that there is now in the hands and custody of the State treasurer of the State of Illinois, as shown by his letter hereto attached, to the credit of Franklin county bond fund, the sum of seven thousand

four hundred and twenty-three dollars and ninety cents ($7,423.90); that the county of Franklin never issued any other railroad aid bonds than to the Belleville and Eldorado Railroad Company, all of which are involved in this suit; that the said money now in
303 the State treasury was voluntarily paid by the taxpayers of Franklin county, Illinois, upon levies made by the State auditor of Illinois for the express purpose of paying interest upon the bonds of your petitioners, and taking up the said interest coupons, and the same was paid into the State treasury for that express purpose, and would have been long since paid to your petitioners but for the restraining order aforesaid; that they are advised and believe and so charge that the said complainant, The County of Franklin, has no interest whatever in the said fund, and that the payment, having been voluntarily made as aforesaid, that the same cannot be recovered back by the taxpayers themselves; that the said money, so soon as it reached the State treasury, was and is sacredly pledged and appropriated to the payment of your petitioner's interest coupons aforesaid; and, furthermore, that the said restraining order as to the State treasurer, made, as the record shows, without appearance and by default, is inequitable, erroneous, and unlawful. Your petitioners therefore pray that the said restraining order against and
304 upon the said State treasurer may be so modified as to allow him to pay out of the said money in his hands to the credit of the Franklin county bond fund the coupons now overdue of your petitioners, as shown in the schedule, upon presentation thereof, and for the passing of all proper and necessary orders in the premises, to the end that your petitioners' rights may be protected and they accorded the fruit of their vigilence in this behalf; and they will ever pray, &c.

SAMUEL P. WHEELER,
Sol'r for these Petitioners.

UNITED STATES OF AMERICA, }
Southern District of Illinois, } *ss:*

Samuel P. Wheeler, being duly sworn, on his oath says: That he is the solicitor for the aforesaid petitioners in the matter therein referred to; that the statements and allegations therein contained are true in substance and in fact, as he verily believes; and further he says nothing. SAMUEL P. WHEELER.

Subscribed and sworn to before me by Samuel P. Wheeler the 3rd day April, A. D. 1882.

J. A. JONES, *Clerk.*

Letter from State Treasurer Concerning Bond Fund.

305 STATE OF ILLINOIS, TREASURER'S OFFICE,
SPRINGFIELD, *Dec. 1st*, 1881.

Samuel P. Wheeler, Esq., Cairo, Ill's.

DEAR S.: Replying to your letter of 29th ult., there is $7,423.90 in the State treasury to the credit of Franklin county bond fund.

Very resp'y, EDW. RUTZ,
State Treas.

Schedule of Bonds and Coupons held by Certain Defendants.

Schedule referred to in and made a part of the foregoing petition.

The People's Savings Bank of Evansville, Indiana, owner of bonds numbered 16 & 67:

3 coupons, bond No. 16, due Jan. 1, '81, July 1, '81, & Jan'y 1, '82, $40	$120	00
3 coupons, bond No. 67, due Jan. 1, '81, July 1, '81, & Jan'y 1, '82, $40	120	00

Anthony Reiz, owner bond No. 80:

3 coupons, due Jan. 1, '81, July 1, '81, & Jan'y 1, '82, $40	120	00

Thomas E. Garvin, owner bond No. 5:

4 coupons, due July 1, '80, Jan. 1, '81, July 1, '81, Jan'y 1, '82, $40	160	00

The German Savings Bank of Davenport, Iowa, owner of bonds Nos. 15, 18, 39, 40, 41, 42, 43, 45, 46, issued under act approved Nov'r 6th, 1849:

306	9 coupons, $40 each, due Jan'y 1, '81	360	00
	9 " " " " July 1, '81	360	00
	9 " " " " Jan'y 1, '82	360	00

Also bonds numbered 11, 12, 14, 30, 33, 34, 35, 39, 47, 56, 57, 58, 59, 60, 62, 63, 66, & 77, issued under act approved Feb'y 22, '61:

18 coupons, $40 each, due Jan'y 1, '81	720	00
18 " " " " July 1 '81	720	00
18 " " " " Jan'y 1, '82	720	00

George W. Steele, owner of bond numbered 98:

3 coupons, due Jan. 1, '81, July 1, '81, Jan'y 1, '82	120	00

Sarah B. Bruyn, owner of bonds numbered 96 & 97:

6 coupons, due Jan'y 1, '81, July 1, '81, & Jan'y 1, '82	240	00

Rothschild Bros., owners of bonds numbered 9, 13, 18, 20, 21, 49, 50, 51, 52, & 53:

30 coupons, Jan'y, '81, July, '81, & Jan'y, '82, $40	1,200	00

John Graham, owner bond No. 19:

3 coupons, Jan. 1, '81, July 1, '81, Jan'y 1, 82	120	00

(Indorsed:) Filed April 3, 1882. J. A. Jones, clerk.

307 And afterwards, to wit, on the fourth day of April, at the January term, in the year last aforesaid, the following proceedings were had in said court in said cause, and entered of record, to wit:

Order Modifying Injunction.

COUNTY OF FRANKLIN
v.
BELLEVILLE AND ELDORADO RAILROAD COMPANY *et al.* } In Chancery.

And now, on the 4th day of April, A. D. 1882, come the People's Savings Bank, of Evansville, Indiana; the German Savings Bank, of Davenport, Iowa; Thomas E. Garvin, Anthony Reiz, George W. Steele, Sarah B. Bryan, Solomon & Benjamin Rothschild, composing the firm of Rothschild Bro., & John Graham, defendants in the foregoing cause, and move the court to so modify the injunction heretofore granted herein against the State treasurer of the State of Illinois as that the interest coupons now due of the bonds of Franklin County, and State of Illinois, issued to the Belleville and Eldorado Railroad Company, held by the several defendants aforesaid joining in said motion, and for an order and decree that the said
308 State treasurer of the State of Illinois pay the coupons now due of the bonds by them held, respectively, upon presentation of said coupons, to the exclusion of any other coupons of the same class; and it appearing to the court that due notice of this motion has been given, and the said defendants making said motion appearing by Samuel P. Wheeler, their attorney, and the said county of Franklin also appearing by William J. Allen, its attorney; and after hearing the arguments of counsel it is ordered, adjudged, and decreed by the court that the injunction heretofore issued against the State treasurer of the State of Illinois be, and the same is hereby, so modified as that the interest coupons now due of the bonds of Franklin county, Illinois, held by the several parties joining in said motion, be paid by the said State treasurer of the State of Illinois, to the exclusion of any other coupons of the same class, upon presentation and surrender thereof to said State treasurer; and it is further ordered, adjudged, and decreed by the court that the State treasurer of the State of Illinois pay, upon pre-
309 sentation of the same and surrender thereof, any and all overdue coupons of the bonds of Franklin county, State of Illinois, issued to the Belleville and Eldorado Railroad Company of bonds numbered as follows, whether issued under the act of Nov'r 6th, 1849, or the act of February 22nd, 1861, owned and held by the parties joining herein, to wit: sixteen (16), sixty-seven (67), eighty (80), five (5), fifteen (15), eighteen (18), thirty-nine (39), forty (40), forty-one (41), forty-two (42), forty-three (43), forty-five (45), forty-six (46), eleven (11), twelve (12), fourteen (14), thirty (30), thirty-three (33), thirty-four (34), thirty-five (35), thirty-nine (39), forty-seven (47), fifty-six (56), fifty-seven (57), fifty-eight (58), fifty-nine (59), sixty (60), sixty-two (62), sixty-three (63), sixty-six (66), seventy-seven (77), ninety-eight (98), ninety-six (96), ninety-seven (97), nine (9), thirteen (13), eighteen (18), twenty (20), twenty-one (21) forty-nine (49), fifty (50), fifty-one (51), fifty-two (52), fifty-three (53), and nineteen (19), to the exclusion of any other coupons of the same class, provided always there is in the hands and custody of

said State treasurer sufficient money to the credit of said Franklin county bond fund to pay the same.

310 It is further ordered, adjudged, and decreed by the court that the determination of this motion and this order and decree shall in no wise affect the question of the validity of said bonds, but the same is reserved for the final hearing hereof.

And afterwards, to wit, on Saturday, the 17th day of June, at the June term in the year last aforesaid, the following proceedings were had in said court in said cause, and entered of record, to wit:

Order on Petition of Thomas E. Garvin and Others to be made Parties, &c.

COUNTY OF FRANKLIN
v.
BELLEVILLE & ELDORADO RAILROAD COMPANY *et al.* } In Chancery.

And now, on this 17th day of June, 1882, comes Thomas E. Garvin, Anthony Reiz, Janie Miller, George P. Dally, and the Park Banking Company of Rockville, Indiana, and file their respective petitions herein praying to be made parties defendant in this cause, which petitions being heard by the court are allowed, and leave given them to answer the complainant's bill, and thereupon they file their answers to the original bill in this cause.

311 *Order upon Petition of John S. Jaquess.*

COUNTY OF FRANKLIN
v.
BELLEVILLE & ELDORADO RAILROAD COMPANY *et al.* } In Chancery.

It is hereby ordered by the court that the order entered in this cause, April 4th, 1882, modifying the injunction heretofore granted herein against the State treasurer of the State of Illinois be so amended as to include payment by the State treasurer of Illinois of the interest coupons now due of the bond of Franklin county, State of Illinois, issued to the Belleville and Eldorado Railroad Company, held by Jonathan S. Jaquess, of Evansville, Indiana, who, March 28th, 1882, filed his petition asking to be made a party defendant in the above-entitled cause. The number of the said bond is No. (7) seven, and the interest coupons now due are numbered seven (7), eight (8), and nine (9.)

Order Modifying Injunction as to Janie Miller et al.

COUNTY OF FRANKLIN
v.
BELLEVILLE & ELDORADO RAILROAD COMPANY *et al.* } In Chancery.

312 And now, on this day, come Janie Miller, George P. Dally, and the Park Banking Company, of Rockville, Indiana, defendants in the foregoing cause, and move the court to so modify in their behalf the injunction heretofore granted herein against the State treasurer of the State of Illinois as that the interest

coupons now due of the bonds of Franklin county, State of Illinois, issued to the Belleville and Eldorado Railroad Company, held by the several defendants aforesaid joining in this motion, and for an order and decree that the said State treasurer of the State of Illinois pay the coupons now due of the bonds by them held respectively upon presentation of said coupons to the exclusion of any other coupons of the same class, and notice of said motion being waived and the said defendants making the said motion appearing by Samuel P. Wheeler, their attorney, and the said county of Franklin appearing by William J. Allen and Thomas J. Layman, her attorneys, and, after hearing the arguments of counsel, it is ordered, adjudged, and decreed by the court that the injunction heretofore issued against the State treasurer of the State of Illinois be,
313 and the same is hereby, so modified as that the interest coupons now due of the bonds of Franklin county, Illinois, held by the several parties joining in this motion, be paid by the said State treasurer of the State of Illinois, to the exclusion of any other coupons of the same class, upon presentation and surrender thereof to said State treasurer; and it is further ordered, adjudged, and decreed by the court that the State treasurer of the State of Illinois pay upon presentation of the same and surrender thereof to him any and all overdue coupons of the bonds of Franklin county, State of Illinois, issued to the Belleville and Eldorado Railroad Company of bonds numbered as follows, whether issued under the act of November 6th, 1849, or the act of February 22nd, 1861, owned and held by the parties joining herein, to wit: twelve (12) and thirteen (13), issued under the act of November 6th, 1849, eleven (11), issued under the same act; eighty-three (83) and (85), issued under the act of February 22nd, 1861, to the exclusion of any other coupons of the same class, provided always there is in the hands and custody of said State treasurer sufficient money to the credit of said Franklin
314 county bond fund to pay the same. The determination of this motion and the order and decree aforesaid does not in any way affect the validity of the bonds.

Cause Submitted.

COUNTY OF FRANKLIN
v.
BELLEVILLE & ELDORADO RAILROAD COMPANY *et al.* } In Chancery.

This day came the parties and by consent this cause is submitted on the bill, answers, and proofs. Complainant filed printed brief and argument, and leave is given the defendants to file brief and argument by 1st of August next, and leave to complainant to reply by September 1st next.

And on the day and year last aforesaid, to wit, on the 17th day of June, A. D. 1882, the following papers were filed in the office of the clerk of said court in said cause, to wit; "Petition of George P. Dally to be made party defendant," "Petition of the Park Banking Company to be made party defendant," "Petition of Janie Miller to be made party defendant," "Answer of The People's Savings Bank and

others to the original bill of complaint in said cause," the
315 "Replication to the separate answer of The People's Savings Bank," and "Stipulation as to defendants being *bona fide* holders, form of bonds," &c.; which said several papers are respectively in the words and figures following, to wit:

Petition of George P. Dally to be made Party Defendant.

In the Circuit Court of the United States for the Southern District of Illinois. June Term, A. D. 1882. In Equity.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE & ELDORADO RAILROAD COMPANY & Others.

To the judge of said court, in chancery sitting:

Your petitioner, George P. Dally, respectfully shows to your honor that he now is, and at the time of the commencement of this suit was, a citizen of the State of Indiana; that he was, at the commencement of this suit, and now is, the owner of one of the bonds issued by the county of Franklin, in the State of Illinois, to the Belleville & Eldorado Railroad Company for the sum of one thousand dollars, and that the same purports to have been issued under and by
316 virtue of an act of the General Assembly of the State of Illinois, entitled "An act to authorize cities and counties to subscribe stock to railroads," approved November 6th, A. D. 1849, and is numbered eleven; that he is designated and described in said suit as an unknown holder of said bond; that no jurisdiction over the person of your petitioner has ever been acquired in said cause, and that he has continuously since the commencement of this suit been a citizen and resident of the State of Indiana aforesaid; that he has never been summoned in the aforesaid cause or served with a copy of complainant's bill filed herein or received the notice required to be sent by mail, or any notice in writing of the decree entered in said cause by the circuit court of Franklin county, Illinois, from whence this cause was removed. Your petitioner therefore prays to be made a party defendant in this cause, and to be heard touching the subject-matter of said suit, to the end that equity may be done him in the premises, &c.

GEORGE P. DALLY,
By SAMUEL P. WHEELER,
His Sol'r.

UNITED STATES OF AMERICA, } *ss:*
Southern District of Illinois, }

317 Samuel P. Wheeler, being sworn, says he is solicitor for the aforesaid petitioner; that the matters and things stated and set forth in the foregoing petition are true in substance and in fact, as he verily believes.

SAMUEL P. WHEELER.

Subscribed and sworn to before me the 17 day of June, A. D. 1882, by Samuel P. Wheeler.

J. A. JONES, *Clerk.*

(Indorsed:) Filed June 17, 1882. J. A. Jones, clerk.

Petition of Park Banking Co. to be Made Party Defendant.

In the Circuit Court of the United States for the Southern District of Illinois. June Term, A. D. 1882. In Equity.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE & ELDORADO RAILROAD COMPANY and Others.

To the judge of said court, in chancery sitting:

Your petitioner, the Park Banking Company, of Rockville, Indiana, respectfully shows to your honor that it is a corporation under the laws of the State of Indiana, and now is, and at the time of
318 the commencement of this suit was, a citizen of the State of Indiana. That it now is, and at the time of the commencement of this suit was, the owner and holder of two of the bonds of Franklin county, State of Illinois, for the sum of one thousand dollars each, and that the same purport to have been issued under and by virtue of an act of the General Assembly of the State of Illinois entitled "An act to incorporate the Belleville and Eldorado Railroad Company," approved February 22d, A. D. 1861, and that the same are numbered respectively 83 and 85. That petitioner is designated and described in said suit as an unknown holder of said bonds. That no jurisdiction over the person of your petitioner has ever been acquired in said cause, and that it has continuously since the commencement of this suit been a citizen of the State of Indiana aforesaid. That it has never been summoned in the aforesaid cause, or served with a copy of complainant's bill filed herein, or received the notice required to be sent by mail, or any notice in writing of the decree entered in said cause by the circuit court of Franklin county, Illinois, from whence this cause was removed. Your peti-
319 tioner therefore prays to be made a party defendant in this cause, and to be heard touching the subject-matter of said suit, to the end that equity may be done petitioner in the premises, &c.

PARK BANKING COMPANY,
By SAMUEL P. WHEELER, *its Sol'r.*

UNITED STATES OF AMERICA, }
Southern District of Illinois, } *ss:*

Samuel P. Wheeler, being sworn, says he is solicitor for the aforesaid petitioner; that the matters and things stated and set forth in the foregoing petition are true in substance and in fact, as he verily believes, and further he says nothing.

SAMUEL P. WHEELER.

Subscribed and sworn to before me by Samuel P. Wheeler the 17 day of June, A. D. 1882.

J. A. JONES, *Clerk.*

(Indorsed:) Filed June 17, 1882. J. A. Jones, clerk.

Petition of Janie Miller to be Made Party Defendant.

In the Circuit Court of the United States for the Southern District of Illinois. June Term, A. D. 1882. In Equity.

320 THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE & ELDORADO RAILROAD COMPANY and Others.

To the judge of said court, in chancery sitting:

Your petitioner, Janie Miller, would respectfully show to your honor that she now is, and at the time of the commencement of this suit was, a citizen of the State of Illinois, and a resident of the county of Knox; that she was, at the time of the commencement of this suit, and now is, the *bona fide* owner and holder of two of the bonds issued by the County of Franklin, in the State of Illinois, to the Belleville & Eldorado Railroad Company, of the denomination of one thousand dollars, and that the same purports to have been issued under and by virtue of an act of the General Assembly of the State of Illinois entitled "An act to authorize cities and counties to subscribe stock to railroads," approved November 6th, A. D. 1849, and are numbered, respectively, 12 & 13; that she is designated and described in
321 said suit as an unknown holder of said bonds; that no jurisdiction over the person of your petitioner has ever been acquired in said cause; that she has never been served with summons in said cause, nor served with a copy of complainant's bill filed herein, or received any notice whatever of the pendency of said cause, or any notice in writing of the decree entered herein by the circuit court of Franklin county, in the State of Illinois, from whence this cause was removed.

She therefore prays to be made a party defendant herein, and to be heard touching the subject-matter of said suit to the end that equity may be done her in the premises, &c.

JANIE MILLER,
By SAMUEL P. WHEELER,
Her Sol'r.

UNITED STATES OF AMERICA, *Southern District of Illinois:*

Samuel P. Wheeler, being sworn, on his oath says: He is solicitor for the foregoing petitioner, Janie Miller; that the matters and things stated therein are true in substance and in fact, as he verily believes; and further he says nothing.

SAMUEL P. WHEELER.

322 Subscribed and sworn to before me the 17 day of June, 1882, by Samuel P. Wheeler.

J. A. JONES, *Clerk.*

(Indorsed:) Filed June 17, 1882. J. A. Jones, clerk.

Answer of People's Savings Bank, Thomas E. Garvin, Anthony Reiz, George P. Dally, Park Banking Co., James Miller to Original Bill.

In the Circuit Court of the United States for the Southern District of Illinois, of the June Term, A. D. 1882. In Equity.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE & ELDORADO RAILROAD COMPANY and Others.

The joint and several answer of The People's Savings Bank of Evansville, Indiana; Thomas E. Garvin, Anthony, Reiz, George P. Dally, the Park Banking Company, of Rockville, Indiana, and Janie Miller, a partof the defendants in the aforesaid cause, to the bill of complaint filed herein.

These defendants, for answer to the said bill of complaint, or to so much thereof as they are advised it is material for them to make answer unto, say: That they have examined and read the answer of the German Savings Bank of Davenport,
323 Iowa, filed herein, and that they hereby adopt and make the said answer their own, excepting such part as sets out the numbers of the bonds held and owned by said German Savings Bank, and with respect thereto these defendants severally answer that the said People's Savings Bank of Evansville, Indiana, is the owner and holder of two of said bonds, numbered, respectively, 16 & 67, purporting to have been issued under and by virtue of an act of the General Assembly entitled "An act to incorporate the Belleville & Eldorado Railroad Company," approved February 22d, 1861; that the said Thomas E. Garvin is the owner and holder of one of said bonds, numbered 5, purporting to have been issued ——; that the said Anthony Reiz is the owner and holder of one of said bonds, numbered 80, purporting to have been issued under the said act of February 22nd, 1861; that the said Park Banking Company of Rockville, Indiana, is the owner and holder of two of said bonds, numbered, respectively, 83 & 85, purporting to have been issued under the said act of Feb'y 22d, 1861; that the said Janie
324 Miller is the owner and holder of two of said bonds, numbered, respectively, 12 & 13, purporting to have been issued under and by virtue of an act of the General Assembly of the State of Illinois entitled "An act to authorize cities and counties to subscribe stock to railroads," approved November 6th, 1849; and that the said George P. Dally is the owner of one of said bonds, numbered 11, purporting to have been issued under the said act of November 6th, 1849.

These defendants, further answering, say that each of them severally purchased the said bonds for value, and without any notice of any defense thereto, long before the commencement of this suit, and that they are severally *bona fide* holders thereof within the meaning of the law.

And, having fully answered, they pray to be hence dismissed, &c.

THE PEOPLE'S SAVINGS BANK
OF EVANSVILLE, INDIANA,
THOMAS E. GARVIN,
ANTHONY REIZ,
GEORGE P. DALLY,
JANIE MILLER, &
PARK BANKING COMPANY OF
ROCKVILLE, INDIANA,
By SAMUEL P. WHEELER,
Their Sol'r.

UNITED STATES OF AMERICA, }
Southern District of Illinois, } *ss:*

325 Samuel P. Wheeler, being sworn, says: He is solicitor for the aforesaid defendants; that the matters and things set forth in the foregoing answer are true in substance and in fact, as he verily believes.

SAMUEL P. WHEELER.

Subscribed and sworn to before me the 17th day of June, 1882.
J. A. JONES, *Clerk.*

(Indorsed:) Filed June 17, 1882. J. A. Jones, clerk.

Replication to Answer of the Peoples' Savings' Bank of Evansville, Indiana, and Others.

In the Circuit Court of the United States for the Southern District of Illinois. January Term, A. D. 1882. In Chancery.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE AND ELDORADO RAILROAD COMPANY *et al.*

The replication of the County of Franklin to the separate answer of the People's Savings Bank of Evansville, Indiana, defendant; Thomas E. Garvin, Anthony Reiz, George P. Dally, The Park Banking Company of Rockville, Indiana, and Janie Miller.

326 This repliant, saving and reserving unto itself all and all manner of advantage of exception to the manifold insufficiencies of the said answer of replication thereunto, says: That it will aver and prove its said bill to be true, certain, and sufficient in the law to be answered unto, and that said answer of the defendant is uncertain, untrue, and insufficient to be replied unto by repliant, without this, that any other matter or thing whatsoever in the said answer contained material or effectual in law to be replied unto, confessed and avoided, traversed or denied, is true. All of which matters and things this repliant is ready and will be ready to aver and prove as this honorable court shall direct, and prays as in and by its said bill it has already prayed.

WM. J. ALLEN AND THOS. J. LAYMAN,
Solicitors for Complainant.

(Indorsed:) Filed June 17th, 1882. J. A. Jones, clerk.

the city and State of New York, twenty years after date (payable at any time after five years, and before this bond becomes due, at the option of said county of Franklin), with interest thereon from and after the fifteenth day of November, A. D. 1877, at the rate of eight per cent. per annum, payable semi-annually on the first days of January and July of each year on the presentation and surrender at the place in the said city of New York where the treasurer of the State of Illinois pays the interest and debt of said State, of the coupons hereto attached as they severally become due.

This bond is one of a series of one hundred of like tenor for the sum of one thousand dollars each, numbered from one to one hundred, inclusive, issued under the provisions of an act of the General Assembly of the State of Illinois entitled "An act to incorporate the Belleville and Eldorado Railroad Company," approved February 22d, 1861, authorizing subscriptions to the capital stock of said railroad, and in accordance with the majority of votes cast at
332 an election held in said county on the 11th day of September, A. D. 1869, in conformity with the provisions of said act.

In testimony whereof the said county of Franklin has executed this bond, by the chairman of the board of supervisors, under the order of the board of supervisors of said county, signing his name hereto, and by the clerk of said board, under the order thereof, attesting the same and affixing hereto the seal of said county.

This done, at the office of the clerk of said board, this 13th day of November, A. D. 1877.

JOHN J. ST. CLAIR,
Chairman of the Board of Supervisors of Franklin County, Illinois.

[SEAL.] EVAN FITZGERELL,
Clerk of the Board of Supervisors, Franklin County, Illinois.

AUDITOR'S OFFICE, ILLINOIS,
SPRINGFIELD, *Nov'r 3d*, 1879.

I, Thomas B. Needles, auditor of public accounts of the State of Illinois, do hereby certify that the within bond has been registered in this office this day pursuant to the provisions of an act entitled "An act to fund and provide for paying the railroad debts of counties, townships, cities, and towns," in force April 16, 1869.

333 In testimony whereof I have hereunto subscribed my name and

Franklin county, eight per cent. railroad bond.

Know all men by these presents, That the county of Franklin, in the State of Illinois, acknowledges itself to be indebted to the Belleville and Eldorado Railroad Company, or bearer, in the sum of one thousand dollars, which sum the said county, for value received, promises to pay said company, or bearer, in the city and State of New York, twenty years after date (payable at any time after five years and before this bond becomes due at the option of said county of Franklin), with interest thereon from and after the fifteenth day of November, A. D. 1877, at the rate of eight per cent. per annum, payable semi-annually on the first days of January and July of each year, on the presentation and surrender, at the place in the said city

And, having fully answered, they pray to be hence dismissed, &c.

THE PEOPLE'S SAVINGS BANK
OF EVANSVILLE, INDIANA,
THOMAS E. GARVIN,
ANTHONY REIZ,
GEORGE P. DALLY,
JANIE MILLER, &
PARK BANKING COMPANY OF
ROCKVILLE, INDIANA,
By SAMUEL P. WHEELER,
Their Sol'r.

UNITED STATES OF AMERICA, } ss:
Southern District of Illinois, }

325 Samuel P. Wheeler, being sworn, says: He is solicitor for the aforesaid defendants; that the matters and things set forth in the foregoing answer are true in substance and in fact, as he verily believes.

SAMUEL P. WHEELER.

Subscribed and sworn to before me the 17th day of June, 1882.
J. A. JONES, *Clerk.*

(Indorsed:) Filed June 17, 1882. J. A. Jones, clerk.

Replication to Answer of the Peoples' Savings' Bank of Evansville, Indiana, and Others.

In the Circuit Court of the United States for the Southern District of Illinois. January Term, A. D. 1882. In Chancery.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE AND ELDORADO RAILROAD COMPANY *et al.*

The replication of the County of Franklin to the separate answer of the People's Savings Bank of Evansville, Indiana, defendant; Thomas E. Garvin, Anthony Reiz, George P. Dally, The Park Banking Company of Rockville, Indiana, and Janie Miller.

326 This repliant, saving and reserving unto itself all and all manner of advantage of exception to the manifold insufficiencies of the said answer of replication thereunto, says: That it will aver and prove its said bill to be true, certain, and sufficient in the law to be answered unto, and that said answer of the defendant is uncertain, untrue, and insufficient to be replied unto by repliant, without this, that any other matter or thing whatsoever in the said answer contained material or effectual in law to be replied unto, confessed and avoided, traversed or denied, is true. All of which matters and things this repliant is ready and will be ready to aver and prove as this honorable court shall direct, and prays as in and by its said bill it has already prayed.

WM. J. ALLEN AND THOS. J. LAYMAN,
Solicitors for Complainant.

(Indorsed:) Filed June 17th, 1882. J. A. Jones, clerk.

Franklin county, eight per cent. railroad bond.

Know all men by these presents, That the county of Franklin, in the State of Illinois, acknowledges itself to be indebted to the Belleville and Eldorado Railroad Company, or bearer, in the sum of one thousand dollars, which sum the said county, for value received, promises to pay said company, or bearer, in the city and State of New York, twenty years after date (payable at any time after five years and before this bond becomes due at the option of said county of Franklin), with interest thereon from and after the fifteenth day of November, A. D. 1877, at the rate of eight per cent. per annum, payable semi-annually on the first days of January and July of each year, on the presentation and surrender, at the place in the said city

the city and State of New York, twenty years after date (payable at any time after five years, and before this bond becomes due, at the option of said county of Franklin), with interest thereon from and after the fifteenth day of November, A. D. 1877, at the rate of eight per cent. per annum, payable semi-annually on the first days of January and July of each year on the presentation and surrender at the place in the said city of New York where the treasurer of the State of Illinois pays the interest and debt of said State, of the coupons hereto attached as they severally become due.

This bond is one of a series of one hundred of like tenor for the sum of one thousand dollars each, numbered from one to one hundred, inclusive, issued under the provisions of an act of the General Assembly of the State of Illinois entitled "An act to incorporate the Belleville and Eldorado Railroad Company," approved February 22d, 1861, authorizing subscriptions to the capital stock of said railroad, and in accordance with the majority of votes cast at
332 an election held in said county on the 11th day of September, A. D. 1869, in conformity with the provisions of said act.

In testimony whereof the said county of Franklin has executed this bond, by the chairman of the board of supervisors, under the order of the board of supervisors of said county, signing his name hereto, and by the clerk of said board, under the order thereof, attesting the same and affixing hereto the seal of said county.

This done, at the office of the clerk of said board, this 13th day of November, A. D. 1877.

JOHN J. ST. CLAIR,
Chairman of the Board of Supervisors of Franklin County, Illinois.

[SEAL.] EVAN FITZGERELL,
Clerk of the Board of Supervisors, Franklin County, Illinois.

AUDITOR'S OFFICE, ILLINOIS,
SPRINGFIELD, *Nov'r 3d*, 1879.

I, Thomas B. Needles, auditor of public accounts of the State of Illinois, do hereby certify that the within bond has been registered in this office this day pursuant to the provisions of an act entitled "An act to fund and provide for paying the railroad debts of counties, townships, cities, and towns," in force April 16, 1869.
333 In testimony whereof I hereunto subscribe my name and affix the seal of my office, at Springfield, the day and year first above written.

[L. S.] T. B. NEEDLES,
Auditor Public Accounts.

(Indorsed:) Filed June 17, A. D. 1882. J. A. Jones, cl'k.

And afterwards, to wit, on Saturday, the first day of July, at the June term, in the year last aforesaid, the following proceedings were had in said court in said cause and entered of record, to wit:

Order Modifying Injunction as to People's Savings Bank et al.

COUNTY OF FRANKLIN
vs.
BELLEVILLE & ELDORADO RAILROAD COMPANY *et al.* } In Chancery.

And now on this day come the People's Savings Bank of Evansville, Indiana; Thomas E. Garvin, Anthony Reis, James Miller, George P. Daly, The Park Banking Company of Rockville, Indiana, and The German Savings Bankof Davenport, Iowa, defendants in this cause, by Samuel P. Wheeler, their attorney, and move the court
334 to so modify, in their behalf, the injunction heretofore granted herein against the State treasurer of the State of Illinois as that the interest coupons maturing this day of the bonds of Franklin county, State of Illinois, issued to the Belleville and Eldorado Railroad Company, held by the several defendants aforesaid joining in this motion, and for an order and decree that the said State treasurer of the State of Illinois pay the coupons due this day by them held, respectively, upon presentation of said coupons, to the exclusion of any other coupons of the same class, and due notice of said motion having been given to the complainant, and after hearing the arguments of counsel, it is ordered, adjudged, and decreed by the court that the injunction heretofore issued against the State treasurer of the State of Illinois be, and the same is hereby, so modified as that the interest coupons due this day of the bonds of Franklin county, Illinois, held by the several parties joining in this motion be paid by the said State treasurer of the State of Illinois, to the exclusion of any other coupons upon presentation and surrender thereof to said State treasurer.

335 And it is further ordered, adjudged, and decreed by the court that the State treasurer of the State of Illinois pay, upon presentation of the same and surrender thereof to him, the coupons due this day of the bonds of Franklin county, Illinois, issued to the Belleville and Eldorado Railroad Company, *of bonds* numbered as follows, to wit, sixteen (16), sixty-seven (67), five (5), eighty-three (83), eighty-five (85) eleven (11), twelve (12), fourteen (14), thirty (30), thirty-three (33), thirty-four (34), thirty-five (35), thirty-nine (39), forty-seven (47), fifty-six (56), fifty-seven (57), fifty-eight (58), fifty-nine (59), sixty (60), sixty-two (62), sixty-three (63), sixty-six (66), seventy-seven (77), and eighty (80), issued under the act approved February 22nd, 1861, and numbers eleven (11), twelve (12), thirteen (13), fifteen (15), eighteen (18), thirty-nine (39), forty (40), forty-one (41), forty-two (42), forty-three (43), forty-five (45), and forty-six (46), issued under the act of November 6th, 1849, to the exclusion of any other coupons of the same class, provided there is in the hands and custody of said State treasurer sufficient money to the credit of said Franklin county bond fund to pay the same, and if there is
336 not sufficient to pay the entire amount of said coupons due this day, then he shall pay the same in the order presented until the fund is exhausted.

And afterward, to wit, on the 22d day of September, in the year

last aforesaid, came Jonathan S. Jaquess, by Messrs. Wilson and Jones, his solicitors, and filed in the office of the clerk of said court his petition to suspend the injunction in said cause, which said petition is in the words and figures following, to wit:

Petition of Jonathan S. Jaquess to Suspend Injunction.

United States Circuit Court, Southern District of Illinois. In Chancery.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE AND ELDORADO R. R. Co. *et al.*

The petition of Jonathan S. Jaquess, of the city of Evansville, State of Indiana, by Wilson & Jones, his attorney-, comes and represents to the court that the county of Franklin, State of Illinois, on account of the Belleville & Eldorado R. R. Company, issued a large number of its bonds, with interest on the same at 8% per
337 annum, payable semi-annually.

Your petitioner further represents that he is holder and owner of bond No. 7 of said issue, and that the interest coupon thereto attached for $40.00, due July 1st, 1882, is now due and payable.

Your petitioner further represents that there is now on deposit in the office of the treasurer of the State of Illinois a large amount of money to the credit of said county for the purpose of meeting the interest coupons due and payable on said bonds, but that said treasurer will not pay out the same for said purposes because of an injunction entered in this cause enjoining said treasurer from paying the same, pending a suit testing the validity of said bonds.

Your petitioner represents that he bought said bond in good faith, and prays that said injunction may be suspended as to said coupon No. (10) ten, and that a decree may be entered ordering said treasurer of the State of Illinois to pay out of the funds in his hands for such purpose the said amount stated in said coupon so held by him; and as in duty bound he will ever pray, &c.

338 JONATHAN S. JAQUESS, *Petitioner.*

WILSON & JONES,
Sol'rs for Pet'r.

(Indorsed:) Filed September 22, 1882. J. A. Jones, clerk.

And afterwards, to wit, on Monday, the 2d day of October, in the term and year last aforesaid, the following proceedings were had in said court in said cause and entered of record, to wit:

Order Modifying Injunction as to Jonathan S. Jacquess et al.

COUNTY OF FRANKLIN
v.
BELLEVILLE & ELDORADO RAILROAD COMPANY *et al.* } In Chancery.

And now on this day come Jonathan S. Jaquess and Thomas Keoth,

by Wilson and Jones, their attorneys, and move the court to so modify in their behalf the injunction heretofore granted herein against the State treasurer of the State of Illinois as that the interest coupons maturing this day or now due of the bonds of Franklin county, State of Illinois, issued to the Belleville and Eldorado Railroad Com-
339 pany, held by the several defendants aforesaid joining in this motion, and for an order and decree that the said State treasurer of the State of Illinois pay the coupons due this day by them held respectively upon presentation of said coupons, and the court having fully considered the matters herein it is ordered, adjudged, and decreed by the court that the injunction heretofore issued against the State treasurer of the State of Illinois be, and the same is hereby, so modified as that the interest coupons due this day of the the bonds of Franklin county, Illinois, held by the several parties joining in this motion, be paid by the said State treasurer of the State of Illinois, upon presentation and surrender thereof to said State treasurer; and it is further ordered, adjudged, and decreed by the court that the State treasurer of the State of Illinois pay upon presentation of the same and surrender thereof to him the coupons due this day of the bonds of Franklin county, Illinois, issued to the Belleville and Eldorado Railroad Company of bonds numbered as follows, to wit, six (6) and ten (10), issued under the act approved February
340 22, A. D. 1861, provided there is the hands and custody of said State treasurer sufficient money to the credit of said Franklin county bond fund to pay the same, and if there is not sufficient to pay the entire amount of said coupons due this day, then he shall pay the same in the order presented until the fund is exhausted.

The depositions and documents exhibited and read in evidence upon the hearing of said cause are in the words and figures following, to wit:

341 *Depositions G. G. Carstens and H. H. Andresen on behalf of German Savings Bank of Davenport, Iowa.*

In the Circuit Court of the United States for the Southern District of Illinois.

THE COUNTY OF FRANKLIN, ILLINOIS,
vs.
THE BELLEVILLE & ELDORADO RAILROAD CO. *et al.*

Stipulation for taking depositions.

It is hereby agreed between the solicitors for the complainants and the solicitors for the German Savings Bank, one of the parties defendant in the above-entitled action, that the depositions of H. H. Andresen, C. G. Carstens, and any other officer or directors of the said German Savings Bank may be taken upon oral interrogatories at the city of Davenport, Iowa, on the 20th day of April, 1882, before George L. Osborn, a notary public in and for said county, at his office in said city, being at No. 218 Main St., commencing at the

hour of 10 o'clock a. m., and continuing from day to day until the taking of said depositions is finished.

Notice of the taking of said depositions is waived, and it is expressly understood and agreed that they may be used upon
342 the trial of said cause the same as if regularly taken according to the rules of practice governing the taking of depositions in cases pending in the said court.

Dated this 13th day of April, 1882.

WM. J. ALLEN AND THOS. J. LAYMON,
Sol's for Compl't.

COOK & DODGE,
Sol's for the German Savings Bank of Davenport, Iowa.

Depositions of witnesses produced, sworn, and examined in pursuance of the annexed stipulation in a certain action pending in the circuit court of the United States for the southern district of Illinois, wherein The County of Franklin, Illinois, is plaintiff and the Belleville & Eldorado Railroad Company, the German Savings Bank of Davenport, Iowa, and others are defendants, at my office in the city of Davenport, Iowa, beginning on the 20th day of April and continuing until the 22d day of April, as in the annexed stipulation it is agreed may be done, said depositions being taken on behalf of the said defendant, The German Savings Bank of Davenport, Iowa.

Deposition of G. G. Carstens.

343 G. G. CARSTENS, being duly sworn, on direct examination, *of* behalf of the said defendant, testified as follows:

By E. E. COOK:

Int. 1. State your name, age, residence, and occupation.

Ans. G. G. Carstens; 50 years old; reside in Davenport, Iowa, and am an attorney-at-law; I am in the special employment of the German Savings Bank of Davenport, Iowa.

Int. 2. State particularly what official connection, if any, you have with the said German Savings Bank of Davenport, Ia., one of the parties defendant to the suit of The County of Franklin, Illinois, *vs.* The Belleville & Eldorado Railroad Company *et al.*, now pending in the United States circuit court for the southern division of Illinois, and how long you have held such official position.

Ans. I am the special attorney of the German Savings Bank of Davenport, Iowa, and have as such attorney charge of all the legal business of the said bank and any other business submitted to me. I went into the employment of the bank Jan'y 1st, 1880, and am a salaried officer of said bank.

344 Int. 3. State whether or not, in your capacity as special attorney for the said bank, you have anything to do with passing upon and deciding questions of investments to be made by said bank; and, if so, what have been your duties in that respect since the time you became connected with the said bank in January, 1880?

Ans. Whenever there are any legal questions connected with the

investments of the bank those matters are first submitted to me to pass my judgment upon the legality of the securities offered, and in all such cases it is my duty to investigate and examine all proceedings, titles, or other matters affecting the legality of such matters.

Int. 4. Please state the names of the president and cashier of the said German Savings Bank of Davenport, Ia., during the year 1880.

Ans. H. Lischer was president and H. H. Andresen was cashier of said bank during 1880.

Int. 5. State whether or not you were called upon, as the special attorney of said bank during the year 1880, to confer with the officers of the bank about a proposed or contemplated in-
345 vestment in certain bonds issued by the county of Franklin, Illinois; and if you state that you were so called upon, you will please state fully the time when you were first so consulted in reference to said bonds, and then state fully and particularly all that you did with reference to ascertaining about the validity of said bonds; and if you had any correspondence with any parties in reference thereto, or if the bank had such correspondence that was conducted by you, or came under your observation, with respect to said matters, you will please produce all original letters or telegrams received by you or the said bank in relation thereto, and all copies of letters or telegrams by you or the said bank written in relation thereto, and hand the same to the notary taking your deposition, that he may make copies of the same and attach them to your deposition properly designated as exhibits hereto; and if the said bank purchased any bonds issued by the said county of Franklin, Illinois, you will state, so far as you have knowledge, just what
346 bonds were bought, of whom the- were purchased, what was paid for them by the said bank, and generally state all that you know in regard to the transaction of purchasing said Franklin county bonds by the said German Savings Bank of Davenport, Iowa.

Ans. In the latter part of March, or the first of April, 1880, I was requested by the cashier of the bank to investigate the legality of Franklin county, Ill., bonds, issued in favor of the Belleville & Eldorado Railroad Company, by the said Franklin county, as some of the same had been offered for sale to the bank by Mr. Julius Schutt, a loan agent & broker, of Davenport. Mr. Schutt, upon the request of the cashier of the bank, submitted to me a certain lot of papers bearing upon this question of the legal issue of said bonds, which papers I examined and passed upon, and which I herewith produce and hand to the notary, to wit:

A letter from Benson Brothers, of Davenport, Ia., attorneys-at-law, dated February 18th, 1880, and addressed to Julius Schutt. (See Exhibit 1.)

An official certificate of Chas A. Akin, clerk of Franklin
347 county, Ill., over his official signature and seal, dated February 26th, 1879, respecting the said bonds, issued by the said county of Franklin, Ill., and offered for sale to the German Savings Bank of Davenport, Iowa. (See Exhibit 2.)

A copy of a dispatch sent by Benson Bros. on the 3d day of Feb'ry, 1880, to the county clerk of Franklin Co., Ill. (See Exhibit 3.)

A dispatch in answer to the above from Benson Bros. to said clerk sent by the "county clerk" to Benson Bros., dated Feb'y 4th, 1880. (See Exhibit 4.)

A letter from Charles A. Akin, county clerk of said Franklin county, Ill., dated Feb'ry 5th, 1880, addressed to Benson Brothers, Davenport, Iowa. (See Exhibit 5.)

After I had gone over these papers to ascertain more of the particulars about the issue of the said bonds and the authority of the county to issue them I wrote to the "auditor of public accounts" of the State of Illinois, who answered my letter, stating that he
348 had referred the matter to the secretary of State. This was by postal card, dated April 7th, 1880, and on the same day I received a letter from the secretary of State enclosing to me a certified copy of the act incorporating the Belleville & Eldorado Railroad Company, approved Feb'ry 22d, 1880, which law I could not find in the general statutes of the State of Illinois, and for which I had written to the auditor of public accounts.

I hand herewith to the notary a copy of my said letter to the auditor of public accounts, which is taken from my letter-press books, the original postal card in answer from the auditor of State, and the letter from the secretary of State enclosing the certified copy of said act. (See Exhibit 6.)

And further, on the 5th day of April, 1880, over the signature of the cashier of the bank, I wrote to the clerk of Franklin Co., Ill., a letter inquiring with reference to said bonds, a copy of which letter taken from the letter-press book of the bank I herewith produce, and the cashier of the bank received in reply to said letter a communication from said clerk of Franklin Co. dated April 8th,
349 1880, which I also produce. (See Exhibits 7 & 8.)

With the other papers, referred to above, Mr. Schutt left with me one of the said bonds issued Nov'b'r 13th, 1887, which recited that it was issued by virtue of an Act to incorporate the Belleville & Eldorado Railroad Company, approved Febr'y 22d, 1861. From all the statements thus collected and before me, I reached the conclusion that Franklin county, Illinois, had the proper authority to issue the bonds under this special law, some of which were offered for sale to the bank, and so reported to the cashier and board of directors of the German Savings Bank of Davenport, Iowa. On the 12th of April Julius Schutt brought into the bank a lot of said bonds, and upon the request of the cashier of said bank I attended personally to the transaction of the business of buying and paying for said bonds.

Mr. Schutt handed to me nine (9) bonds of said Franklin Co., Ill., issued by virtue of the aforesaid special law, to wit: Nos. 11, 12, 14, 33, 34, 35, 47, 56, and 57, which were bought by me for the
350 bank at 99 cents on the dollar and accrued interest. The receipt was prepared by me, signed by Julius Schutt, the bonds delivered, and the money paid therefor. I herewith produce said receipt. (See Exhibit 9.)

On the next day Julius Schutt offered for sale four (4) other bonds, to wit: Nos. 15, 18, 45, and 46, each for $1,000.00, issued, as recited therein, by virtue of an Act to authorize counties and cities to subscribe stock to railroads, approved Nov'b'r 6th, 1849. After examination of the law referred to, I reported to the cashier that in my opinion the same were legally issued, and under the proper authority; whereupon the said cashier directed me to transact the business of purchasing the said bonds from Mr. Schutt, as had been done the day before. Again I prepared a receipt, which was signed by Mr. Schutt, and which I herewith produce. (See Exhibit 10.)

Next, on the 15th of May, 1880, Mr. Julius Schutt offered for sale to the bank five (5) more bonds, bearing numbers 39, 40, 41, 42, and 43, issued by the said Franklin county, Ill., by virtue of the
351 general law last above mentioned, and upon direction of the cashier I bought said bonds on the same terms as before, to wit, 99 cents on the dollar and accrued interest. A receipt therefor was prepared by me, signed by the said Julius Schutt, and the same is herewith produced. (See Exhibit 11.)

On the 20th of May, 1880, the said Julius Schutt offered for sale five other bonds, each for the sum of $1,000.00, issued by the said county of Franklin, Ill., in aid of the Belleville & Eldorado Railroad Company, by virtue of an act entitled "An act to incorporate the Belleville & Eldorado Railroad Company," approved Febr'y 23d, 1861, these bonds bearing Nos. as follows, to wit: 58, 59, 60, 62, and 66. In the same manner as before the transaction was referred to me. I bought the said bonds for the German Savings Bank at 99 & ¼ cents on the dollar, paid the money therefor to said Julius Schutt, prepared a receipt, which he signed, and which I herewith produce. (See Exhibit 12.)

On the 11th of June, 1880, one bond, numbered 77, issued by the said county of Franklin, Ill., in favor of the Belleville & Eldo-
352 rado Railroad Company, by virtue of the said special law above mentioned, and as recited in said bond, was offered for sale by the said Julius Schutt at the said bank and bought by it at 99 & ¼ cents, with accrued interest. The business was transacted by me, under direction of the cashier of said bank, a receipt was prepared by me, signed by the said Julius Schutt, and the same is herewith produced. (See Exhibit 13.)

And finally, on the 24th of June, 1880, three (3) other bonds of the same issue under the special law, to wit: Nos. 30, 39, and 63, were offered for sale by said Julius Schutt to said bank and bought at 99 & ¼ cents on the dollar, with accrued interest thereon. The whole transaction was referred to me by said cashier. I received the said bonds, paid the money therefor to Julius Schutt, prepared receipt, which was signed by Schutt, and which I herewith produce. (See Exhibit 14.)

In all these transactions, so far as my recollection goes, the money was received by me from the teller of the bank, upon instruc-
353 tions from the cashier, and by me paid over to Mr. Julius Schutt, after he had signed a receipt therefor and delivered the bonds to me. I herewith hand to the notary the documents,

letters, &c., above referred to by me, of which he may make copies to attach to my deposition as exhibits.

Int. 6. You may state whether or not there was any past due or unpaid interest upon any of the said bonds described in your last preceding answer at the time when the bank purchased the same, so far as you know, and from information which you had; state whether or not you suspected there was any past due and unpaid interest on said bonds.

Ans. Not any; and, as far as I knew, and I had it from the letters of Charles A. Akin, the county clerk of Franklin county, Ill., dated April 8th, 1880, and above referred to, the interest had all been paid theretofore.

Int. [7]. You may now state what knowledge or suspicion you, or so far as you know the officers of the said German Savings Bank, had, at the time of purchasing any of said bonds which have
354 have been referred to, that there was any invalidity or any irregularity or objection to any of said bonds.

Ans. I had none; and my report to the cashier and board of directors of the said bank was based upon the firm opinion that the validity of the bonds were not in question, else I should not have reported in such a way to them; and so far as I have any knowledge as to the other officers of the bank they had no suspicion or the least knowledge of any invalidity, illegality, or irregularity as to the issue of said bonds, since the whole matter was referred to me, and the officers of the bank, in deciding to buy these bonds, relied upon the verbal opinion by me given to them.

Int. 8. State whether or not any installment or installments of interest were paid upon the said bonds after their purchase by the said German Savings Bank.

Ans. The first installment of interest which fell due after the bonds were purchased by the said bank was paid, as provided in the said bonds.

The further examination of said witness is herewith ad-
355 journed until 11 o'clock a. m. of April 21st, 1882, at the same place.

Pursuant to adjournment, as above noted, the examination of the witness, G. G. Carstens, was resumed at my office at said city at the time stated.

Int. 9. You will now state what knowledge or information, if any, you or any of the officers of the German Savings Bank had at any time before the purchase of the bonds, as stated above by you, that there was, or had ever been, any litigation about the validity of those Franklin county bonds.

Ans. None whatever, so far as I was able to ascertain, and I am pretty sure that the officers of the bank had no knowledge of any litigation, since the whole matter as to the legality of the bonds was left with me.

Int. 10. In answer to interrogatory 5 you have stated what bonds were purchased by the German Savings Bank, and the prices paid

therefor. You will now please state whether or not the said bank has, at all times, since the said original purchase owned and held the said bonds, and whether or not it yet owns and holds them.

356 Ans. The bank has owned and held the said bonds during all the time from their original purchase down to the present, and it now owns and holds them.

G. G. CARSTENS.

Subscribed by the said G. G. Carstens in my presence and by him sworn to before me this 24 day of April, 1882.

[L. S.] GEORGE L. OSBORN,
Notary Public, Scott Co., Ia.

Upon the conclusion of the examination of the witness, G. G. Carstens, the further examination of witnesses in this matter is adjourned until April 22d, at 10 o'clock a. m., at the same place.

Pursuant to the adjournment last above mentioned the examination of witnesses was resumed at the time and place stated to be begun, viz., at the office of Geo. L. Osborn, in the City of Davenport, Ia., at 10 o'clock a. m., of April 22d, 1882:

Deposition of H. H. Andresen.

H. H. ANDRESEN, being produced, was duly sworn on behalf of the defendant, the said German Savings Bank, of Davenport, Iowa, and, upon direct examination by E. E. Cook, Esq., testified as follows:

357 Int. 1. Please state your name, age, residence, and occupation.

Ans. H. H. Andresen; age, 56; am a resident of Davenport, Iowa, and am cashier of the German Savings Bank, of said city.

Int. 2. You may state whether or not in the year 1880, and previous thereto, you were cashier of the German Savings Bank of Davenport, Iowa, and whether or not you now fill such position.

Ans. In 1880, and previous thereto, I was cashier of the said bank, and am now filling such position.

Int. 3. What connection, if any, did Mr. G. G. Carstens have with the bank in 1880, and what connection, if any, has he with it now?

Ans. In 1880 he was the attorney of the bank, and is now such attorney.

Int. 4. You may state whether or not during the year 1880 you and the board of directors of the said bank considered the question of making any investment in the bonds of Franklin county, Ill. If so, state fully and particularly all that you did with reference to ascertaining about the validity of the said bonds; and if

358 you or any one for the said bank had any correspondence with any parties in reference to the said bonds, you will please refer to the same, whether letters or telegrams, or both, and if they are the same as those submitted by Mr. G. G. Carstens—whose deposition has been taken in this matter—and copies of which letters and telegrams are attached to his said deposition, you will please refer to and examine the same, and state whether or not

you read them during the time the validity of said bonds was under consideration, and before the purchase of said bonds, and whether or not those letters and telegrams were submitted to the board of directors, and you may state generally all that was done in relation to the purchase of said bonds by the bank, describing the particular bonds that were purchased.

Ans. It was, I think, in February of the year 1880 that certain bonds of the county of Franklin, Ill., were offered to us by Mr. Julius Schutt, of this city, and we considered the question whether or not to buy them. We came to the conclusion that we would buy them at the prices offered, viz., 99 cents, and referred the
359 matter to our attorney as to the legality and validity of the bonds. I have examined and read all the letters and documents referred in the deposition of Mr. Carstens, and recognize them as the same correspondence and original documents which were submitted to me as cashier of the said bank and to the board of directors of the bank in 1880, before the purchase of said bonds, and upon the strength of which and the opinion of our attorney that the bonds were valid we purchased them. Upon the receipt of the verbal report of Mr. Carstens, our attorney, that he considered the bonds legally issued, we ordered the teller to pay the amounts of the purchase-money upon the order of our said attorney and upon the receipt of the bonds.

Mr. Carstens, as special attorney of the bank, having special charge of the matter, attended to the details of the transaction, and I, as cashier, and the board of directors relied upon the judgment and advice of our said attorney in the matter. We also examined the bonds themselves and the recitals therein contained. I have
360 read the entire deposition of Mr. G. G. Carstens, taken before George L. Osborn, as commissioner, on the 20th and 21st days of April, 1882, and his answer to direct interrogatory number 5 propounded to him shows fully and in detail the documents which I have referred to and the numbers and description of the bonds of Franklin county, Ill., which were purchased by the bank, the dates of purchase, the prices paid therefor, and all the particulars in reference thereto, and I state that, having carefully read the said answer to interrogatory 5, I adopt all the statements thereof as a part of this my answer to this interrogatory, the same as if I repeated the same in detail in this answer.

Int. 5. You may state whether or not there was any past-due and unpaid interest upon any of said bonds of Franklin county, Ill., purchased by the said German Savings Bank up to the time when the said bank purchased the same, so far as you know; or from information which you had state whether or not you had any suspicion that there was any past-due and unpaid interest on said bonds.

361 Ans. We understood at the time that the interest was paid when due, there were no past-due and unpaid coupons attached to the bonds when we bought them, nor did we have any suspicion there was any past-due and unpaid interest on said bonds; on the contrary I was advised by Charles A. Akin, the county clerk

therefor. You will now please state whether or not the said bank has, at all times, since the said original purchase owned and held the said bonds, and whether or not it yet owns and holds them.

356 Ans. The bank has owned and held the said bonds during all the time from their original purchase down to the present, and it now owns and holds them.

G. G. CARSTENS.

Subscribed by the said G. G. Carstens in my presence and by him sworn to before me this 24 day of April, 1882.

[L. S.] GEORGE L. OSBORN,
Notary Public, Scott Co., Ia.

Upon the conclusion of the examination of the witness, G. G. Carstens, the further examination of witnesses in this matter is adjourned until April 22d, at 10 o'clock a. m., at the same place.

Pursuant to the adjournment last above mentioned the examination of witnesses was resumed at the time and place stated to be begun, viz., at the office of Geo. L. Osborn, in the City of Davenport, Ia., at 10 o'clock a. m., of April 22d, 1882:

Deposition of H. H. Andresen.

H. H. ANDRESEN, being produced, was duly sworn on behalf of the defendant, the said German Savings Bank, of Davenport, Iowa, and, upon direct examination by E. E. Cook, Esq., testified as follows:

357 Int. 1. Please state your name, age, residence, and occupation.

Ans. H. H. Andresen; age, 56; am a resident of Davenport, Iowa, and am cashier of the German Savings Bank, of said city.

Int. 2. You may state whether or not in the year 1880, and previous thereto, you were cashier of the German Savings Bank of Davenport, Iowa, and whether or not you now fill such position.

Ans. In 1880, and previous thereto, I was cashier of the said bank, and am now filling such position.

Int. 3. What connection, if any, did Mr. G. G. Carstens have with the bank in 1880, and what connection, if any, has he with it now?

Ans. In 1880 he was the attorney of the bank, and is now such attorney.

Int. 4. You may state whether or not during the year 1880 you and the board of directors of the said bank considered the question of making any investment in the bonds of Franklin county, Ill. If so, state fully and particularly all that you did with reference to ascertaining about the validity of the said bonds; and if

358 you or any one for the said bank had any correspondence with any parties in reference to the said bonds, you will please refer to the same, whether letters or telegrams, or both, and if they are the same as those submitted by Mr. G. G. Carstens—whose deposition has been taken in this matter—and copies of which letters and telegrams are attached to his said deposition, you will please refer to and examine the same, and state whether or not

you read them during the time the validity of said bonds was under consideration, and before the purchase of said bonds, and whether or not those letters and telegrams were submitted to the board of directors, and you may state generally all that was done in relation to the purchase of said bonds by the bank, describing the particular bonds that were purchased.

Ans. It was, I think, in February of the year 1880 that certain bonds of the county of Franklin, Ill., were offered to us by Mr. Julius Schutt, of this city, and we considered the question whether or not to buy them. We came to the conclusion that we would buy them at the prices offered, viz., 99 cents, and referred the
359 matter to our attorney as to the legality and validity of the bonds. I have examined and read all the letters and documents referred in the deposition of Mr. Carstens, and recognize them as the same correspondence and original documents which were submitted to me as cashier of the said bank and to the board of directors of the bank in 1880, before the purchase of said bonds, and upon the strength of which and the opinion of our attorney that the bonds were valid we purchased them. Upon the receipt of the verbal report of Mr. Carstens, our attorney, that he considered the bonds legally issued, we ordered the teller to pay the amounts of the purchase-money upon the order of our said attorney and upon the receipt of the bonds.

Mr. Carstens, as special attorney of the bank, having special charge of the matter, attended to the details of the transaction, and I, as cashier, and the board of directors relied upon the judgment and advice of our said attorney in the matter. We also examined the bonds themselves and the recitals therein contained. I have
360 read the entire deposition of Mr. G. G. Carstens, taken before George L. Osborn, as commissioner, on the 20th and 21st days of April, 1882, and his answer to direct interrogatory number 5 propounded to him shows fully and in detail the documents which I have referred to and the numbers and description of the bonds of Franklin county, Ill., which were purchased by the bank, the dates of purchase, the prices paid therefor, and all the particulars in reference thereto, and I state that, having carefully read the said answer to interrogatory 5, I adopt all the statements thereof as a part of this my answer to this interrogatory, the same as if I repeated the same in detail in this answer.

Int. 5. You may state whether or not there was any past-due and unpaid interest upon any of said bonds of Franklin county, Ill., purchased by the said German Savings Bank up to the time when the said bank purchased the same, so far as you know; or from information which you had state whether or not you had any suspicion that there was any past-due and unpaid interest on said bonds.

361 Ans. We understood at the time that the interest was paid when due, there were no past-due and unpaid coupons attached to the bonds when we bought them, nor did we have any suspicion there was any past-due and unpaid interest on said bonds; on the contrary I was advised by Charles A. Akin, the county clerk

of said Franklin county, that the interest had all been paid prior to the time we purchased said bonds.

Int. 6. You may state what knowledge or suspicion you or any of the officers of the bank, so far as you know, of the said German Savings Bank, had at the time of purchasing said bonds that there was any invalidity, irregularity, or objection to any of the said bonds so purchased by your bank.

Ans. We had no knowledge of any invalidity, irregularity, or objection to the said bonds of Franklin county, Ill., and if we had had any suspicion we never would have purchased them.

Int. 7. State whether or not any installment or installments of interest were paid upon the said bonds after their purchase by the said German Savings Bank of Davenport, Iowa.

362 Ans. The first installment of interest due after the purchase of said bonds by the bank was paid when due as provided in the said bonds.

Int. 8. You may state what, if any, knowledge you, or, so far as you know, any of the officers of the German Savings Bank had at the time or before the time of the purchase of these bonds, as stated by you above, that there was any or had ever been any litigation about the validity of these Franklin county, Illinois, bonds?

Ans. We had no knowledge of any litigation about the validity of the Franklin county bonds.

Int. 9. You will please state whether or not at all times since the purchase of the said bonds by the German Savings Bank, the said bank has owned and held the said bonds, and whether it is now the owner and holder and actual possessor of the said bonds.

Ans. The German Savings Bank has held and owned and does at the present time own and hold the said bonds. They have been in the actual possession of the bank ever since their purchase, and are now in the actual possession of the said bank.

363 H. H. ANDRESEN.

Subscribed by the said H. H. Andresen, in my presence, and by him sworn to before me, this 24th day ot April, 1882.

[L. S.] GEORGE L. OSBORN,
Notary Public, Scott Co., Ia.

STATE OF IOWA, }
County of Scott, } ss:

I, George L. Osborn, a notary public in and for said county, do hereby certify that, in pursuance of the stipulation between the attorneys to this action, hereto attached, I caused to appear before me, at my office in the city of Davenport, Iowa, on the 20th day of April, 1882, G. G. Carstens and H. H. Andressen, who, being duly sworn, their evidence was reduced to writing by me, and was duly read over by the said witnesses and sworn to before me on this 24th day of April, 1882.

The examination of said witness, G. G. Carstens, was commenced on the 20th of April, 1882, but was not concluded until the 21st, and the examination of the witness H. H. Andresen was commenced and concluded on the 22d of April, 1882.

I further certify that E. E. Cook appeared on behalf of the
364 defendant, the German Savings Bank, one of the defendants, and conducted the examination in behalf of the said defendant, but no counsel appeared on behalf of the plaintiff to cross-examine said witnesses.

The foregoing depositions being taken in a certain action pending in the circuit court of the United States for the southern div. of Ill., wherein the county of Franklin, Illinois, is plaintiff and the Belleville & Eldorado Railroad Company, The German Savings Bank of Davenport, Iowa, and others are defendants on behalf of the defendant, the German Savings Bank of Davenport, Iowa.

[L. S.] GEORGE L. OSBORN,
Notary Public, Scott Co., Ia.

Commissioner's fee, $12.00. Paid by the German Savings Bank, def't.

The following are the exhibits referred to in the deposition of G. G. Carstens, Esq.

GEORGE L. OSBORN, *N. P*

EXHIBIT 1.

Exhibit 1 *to Deposition of G. G. Carstens.*

DAVENPORT, IOWA, 2, 18, 1880.

Julius Schutt, Esq., city.

365 DEAR SIR: You ask us what we know of the Franklin county, Ill., 8 p'r c't bonds, issued to Belleville & Eldorado Railroad Company to pay for stock in said railroad. In reply we would say that we have owned some of these bonds and consider them a good investment. Before buying we looked into the matter, and were satisfied that the bonds were legally issued and regular in every way. They were given for good and valid consideration. The road is built through the county, is in operation, and has issued $200,000 in stock to said Franklin county. The interest has always been promptly met. Under the law the assessment for int. is made by State auditor and paid by him. The bonds are registered in the office of the auditor of State, as appears on back of bonds.

Mess. Nelson & Noel, bankers, St. Louis, bought $40,000 of these bonds and had the proceeding of the county officials carefully examined and the entire proceedings relative to the issue of the bonds passed upon by able and competent att'ys, who pronounced
366 the bonds regular and legal in every way.

Mess. Nelson & Noel are friends of ours, as well as business correspondents, and in conversation with our —, Erastus A. Benson, while in St. Louis the other day, gave him the facts in the case substantially as they are briefly given above.

The bonds have greatly increased in value since the completion of the road, and we consider the bonds a good investment at 102 to 105 and int.

If this can be of any use to you in negotiating your bonds you are at liberty to use it.

Yours, respectfully, BENSON BROS.

EXHIBIT 2.

Exhibit 2 to Deposition of G. G. Carstens.

BENTON, ILLINOIS, *February* 26, 1879.

SIRS: I, Charles A. Aken, clerk of the county court of Franklin, Illinois, do hereby certify concerning certain bonds next below described, to wit:

Issued by—	Date.	Number.	Size.	Interest Rate.
Franklin Co., Ill.	Nov. 13, 1877.	150	$1,000.	8 per cent

Coupons payable where—	Coupons payable when—	Bonds nature.	Reg. with State Aud'r or not.
New York.	July & January 1st of each year.	Nov. 13, 1897.	75 registered; 75 not reg.

367 That said bonds are issued under authority granted by two acts of the Legislature of the State of Illinois—first, $100,000 under an act entitled An act to incorporate the Belleville & Eldorado R. R. Co., approved Febr'y 22d, 1861, and $50,000 under An act authorizing counties and cities to subscribe stock to r'roads, approved Nov. 6th, 1849—and that at a popular election, held in conformity with said acts, upon the 11th day of Sept., 1869, the issue of $200,000 worth of said bonds to the Belleville & Eldorado R. R. Company, for the purpose of paying for $200,000 of the capital stock of said R. R. Co. subscribed by said county, was ordered by an official return of 1,238 votes in the affirmative and 389 votes in the negative.

I further certify that the value of taxable property, as returned for assessment in the year 1878, is $1,315,369.00; that the cash valuation is about $2,600,000.00, the value at which it is held is about $3,900,000.00; that the total bonded debt of said county, including the bonds issued ($150,000), by virtue of said election, is
368 $174,000.00; that the floating debt of said county is small and provided for by the levy of 1878; that the population is about 16,000 souls.

I further certify that the said bonds are duly authenticated by the signature of the proper officers, and that their issue is regular and formal, as by law provided.

[Seal of the County Court.]

CHAS. A. AKIN,
County Clerk.

EXHIBIT 3.

Exhibit 3 to Deposition of G. G. Carstens.

DAVENPORT, 2, 3, 1880.

To county clerk, Benton, Franklin county, Ills.:

Do you consider the Franklin Co. railroad aid bonds legal and regular in every respect? Please telegraph, our expense.

BENSON BRO.

EXHIBIT 4.

Exhibit 4 to Deposition of G. G. Carstens.

BENTON, ILL., *Feb.* 4, 1880.

To Benson Bros.:

I regard the Franklin county railroad bonds strictly legal and regular — every respect.

——— ———,
County Clerk.

EXHIBIT 5.

Exhibit 5 to Deposition of G. G. Carstens.

BENTON, *Feb. 5th*, 1880.

Benson Brothers, Davenport, Iowa.

369 DEAR SIRS: Yours of 2–3 is at hand, and in reply will say that I regard the issue of railroad aid bonds by Franklin county, Illinois, to the Belleville & Eldorado Railroad Company as strictly legal and regular. I have carefully scrutinized every act of the county authorities of this county relative to the issuance of said bonds, and find the acts of said authorities to conform in every respect with the laws of our State and the vote of our people.

I base my opinion upon the following facts and reasons:

1st. The issue of said bonds was authorized by a vote of a majority of the voters of the county at an election held for the purpose.

2d. The order of court authorizing said issuance was based upon said vote.

3. The proposition embodied in said order was kept open by various orders of the said court, from time to time, granting extensions of the time for beginning and completing said road.

4th. The bonds were actually issued in accordance with an
370 order of the board of supervisors of said county authorizing said subscription of stock.

5th. The bonds have all been delivered to the builders of said road in good faith, strictly in compliance with the terms of said contract entered into by and between the said County of Franklin and said Railroad Company.

6th. The interest on said bonds have been regularly paid without process or complaint. I have been at great pains to arrive at the above facts, and my charge for same, $10.00, which I will expect by return mail.

Very respectfully, yours, &c.

CHAS. A. AKIN, *Co. Clerk.*

End of Exhibit 5.

EXHIBIT 6.

Exhibit 6 to Deposition of G. G. Carstens.

DAVENPORT, IOWA, *April 5th*, 1880.

Auditor of public accounts, Springfield, Ill.

DEAR SIR: Some bonds issued by Franklin county under provisions of an act of the General Assembly of the State of Illinois entitled "An act to incorporate the Belleville & Eldorado R.
371 R. Co.," approved Febr'y 22d, 1861, have been offered for sale to the above bank, the special counsel of which I am. Please have the kindness to send me a copy of said act and I shall remit whatever charges there may be by return mail.

Respectfully yours,

G. G. CARSTENS.

STATE OF ILLINOIS, AUDITOR'S OFFICE,
SPRINGFIELD, 4–7, 1880.

DEAR SIR: Yours of 5th inst. received. I have referred same to the hon. sec'y of State, who is custodian of the laws, and will send you certified copy as requested.

Very respectfully, T. B. NEEDLES, *Auditor.*

STATE OF ILLINOIS, SECRETARY'S OFFICE,
SPRINGFIELD, *Ap'l* 7, 1880.

G. G. Carstens, Esq., Davenport, Iowa.

DEAR SIR: Enclosed please find certified copy of "An act to incorporate the Belleville & Eldorado Railroad Company." The fee for the same is $2.50.

Very truly, GEORGE H. HARLOW,
Sec'y of State.

End of Exhibit 6.

372 EXHIBIT 7.

Exhibit 7 to Deposition of G. G. Carstens.

DAVENPORT, IOWA, *April 5th*, 1880.

Chas. A. Akin, Esq., Benton, Ill.:

Some bonds of Franklin Co. issued in aid to the Bellèville & Eldorado R. R. Co. on the 13th day of November, 1877, have been offered as for sale. The bonds are issued under an act to incorporate the Belleville & Eldorado R. R. Co., approved Feb. 22d, 1861. We want a certified copy of said act, and you would do us a great favor by sending us the same as soon as possible.

Any charges we will remit directly.

Further, could you tell us whether they are salable at your county, and what price used to be paid for —? Please answer, and oblige.

Yours truly,

H. H. ANDRESEN, *Cashier.*

EXHIBIT 8.

Exhibit 8 to Deposition of G. G. Carstens.

BENTON, *April* 8, 1880.

Mr. H. H. Andressen, Davenport, Iowa.

373 DEAR SIR: Your letter of inquiry in reference to bonds of Franklin county, of date of April 5th, is at hand, and in reply will —— that the bonds of said denomination are considered good property here, and while but few of them have been sold inside of the county they have always brought a good price and are now virtually at par here.

I have investigated the price of them to-day and find them held at 98 cents.

This is the most reliable information I can obtain here.

The interest is amply provided for and is being readily paid, which has had a tendency to enhance their value. My charges for the examination and report I have made to-day is $3.00, which you will please forward as you indicate.

Yours, &c., CHARLES A. AKIN, *Co. Clerk.*

End of Exhibit 8.

EXHIBIT 9.

Exhibit 9 to Deposition of G. G. Carstens.

DAVENPORT, IOWA, *April 12th*, 1880.

Sold this day to the German Savings Bank of Davenport
374 9 bonds of Franklin county, Illinois, issued November 13th, 1877, in aid of the Belleville & Eldorado Rail'r. Co., at $1,000 each, to wit: No-. 11, 12, 14, 33, 34, 35, 47, 56, and 57; total, $9,000.00; at 99 per cent., $8,910; accrued interest at 8 per cent. from January 1st to April 12, 1880, $202.00—($9,112) nine thousand one hundred and twelve dollars, the receipt of which I hereby acknowledge.

JULIUS SCHUTT.

End of Exhibit 9.

EXHIBIT 10.

Exhibit 10 to Deposition of G. G. Carstens.

DAVENPORT, IOWA, *April 13th*, 1880.

Sold to the German Savings Bank the following Franklin Co., Ill., railroad bonds, issued Nov'b'r 13th, 1877, under "An act to authorize cities and counties to subscribe stock to railroads," approved Nov'b'r 6th, 1849, to wit, No-. 15, 18, 45, and 46, each for $1,000, amounting to $4,000, at 99 cents	$3,960 00
Accrued interest, 8 p'r c't, from January 1st to April 13th, 1880	90 65
	$4,050 65

Four thousand and fifty dollars and sixty-five cents, the receipt of which I hereby acknowledge.

JULIUS SCHUTT.

375 EXHIBIT 11.

Exhibit 11 *to Deposition of G. G. Carstens.*

DAVENPORT, IOWA, *May 15th*, 1880.

Sold this day to the German Savings Bank of Davenport, Iowa, 5 bonds of Franklin county, Illinois, issued Nov'b'r 13th, 1877, in aid of the Belleville & Eldorado Rail'r. Co., at $1,000 each, to wit: No. 39, 40, 41, 42, and 43; total, for $5,000, at 99 per cent.	$4,950 00
Accrued interest at 8 per cent. from January 1st to April 15th, 1880	150 00
	$5,100 00

Five thousand and one hundred dollars, the receipt of which I hereby acknowledge.

JULIUS SCHUTT.

EXHIBIT 12.

Exhibit 12 *to Deposition of G. G. Carstens.*

DAVENPORT, IOWA, *May 20th*, 1880.

Sold this day to the German Savings Bank the following bonds of Franklin county, issued Nov'b'r 13th, 1877, in aid of the Belleville & Eldorado Rail'r. Co., to wit: No. 58, 59, 60, 62, and 66, 5 bonds, at $1,000.00, $5,000.00, at 99 & ¼	$4,962 50
8 p'r c't interest from January 1st to May 20th, 1880	154 50
	$5,117 00

Five thousand one hundred and seventeen dollars, the receipt whereof I hereby acknowledge.

JULIUS SCHUTT.

376 EXHIBIT 13.

Exhibit 13 *to Deposition of G. G. Carstens.*

DAVENPORT, IOWA, *June* 11th, 1880.

Sold to the German Savings Bank of Davenport, Iowa, $1,000 railroad bond of Franklin county, Ill., No. 77, at 99 & ¼ p'r c't	$992 50
Interest at 8 p'r cent., Jan'y 1st, 1880, to June 11th, 1880	35 55
	$1,028 05

Which amount was paid to me this day.

JULIUS SCHUTT.

EXHIBIT 14.

Exhibit 14 *to Deposition of G. G. Carstens.*

DAVENPORT, IOWA, *June 24th*, 1880.

Sold to the German Savings Bank of Davenport, Iowa, 3 bonds of Franklin county, Illinois, to aid the Belleville & Eldorado Rail'r. Co. for $1,000 each, to wit: No. 30, 39, and 63, at 99 & ¼ cents	$2,977 50
With 8 per cent. interest	115,30
	$3,092 80

Three thousand and ninety-two dollars 80 cents, the receipt whereof I hereby acknowledge.

JULIUS SCHUTT.

(Indorsed:) Filed May 4, 1882. J. A. Jones, clerk.

Opened at request of S. P. Wheeler, Esq., June 16, '82.
J. A. JONES, *Clerk.*

377 *Stipulation as to Affidavits of Henry Hudson and A. C. Stalcup.*

In the Circuit Court of the United States, Southern Dist. of Illinois.

THE COUNTY OF FRANKLIN
v.
THE BELLEVILLE & ELDORADO R. R. CO. *et al.*

Stipulation as to certain evidence.

It is agreed between the complainant and the defendants, represented by Samuel P. Wheeler and Cook & Dodge, that the attached affidavits of Henry Hudson and A. C. Stalcup may be read in evidence on behalf of said defendants on the hearing of this cause the same as if they were depositions of said witnesses formally taken in this cause. All objections as to form are waived, but complainant reserves the right to make all objections as to the materiality of said evidence, or its admissibility.

Dated at Benton, Ill., this 6th day of June, 1882.

THOS. J. LAYMAN,
Att'y for Complainant.
COOK & DODGE AND
SAMUEL P. WHEELER,
Per E. E. COOK,
For Certain Defendants.

378 *Affidavit of Henry Hudson.*

STATE OF ILLINOIS, } ss:
Franklin County. }

Henry Hudson, of the county of Franklin and State of Illinois, being first duly sworn, on his oath states: That during the year 1880 he

was in the employ of Wm. D. Seeber, who was sheriff and *ex officio* collector of said Franklin county, and that affiant was employed exclusively in the collection of the taxes for the year 1879, and keeping accounts thereof, and was charged with making settlements with the several officers to whom the revenue collected way payable; that on the 16th day of April, A. D. 1880, he received for said collector from Alexander C. Stalcup, who was at that time treasurer of said Franklin county, certain coupons clipped from Franklin county bonds issued in aid of the Belleville and Eldorado railroad, described as follows, to wit:

Coupon	No. 5,	bond	No. 19			$20	89
"	" 5,	"	" 17			22	44
"	" 5,	"	" 16			22	44
"	" 4,	"	" 77			1	10
"	" 5,	"	" 77			40	00
	Coupon	No. 5,	bond	No. 9		24	89
379	"	" 5,	"	" 89		14	89
	"	" 5,	"	" 91		14	89
Coupon	No. 5,	bond	No. 92			14	89
"	" 5,	"	" 93			14	89
"	" 5,	"	" 94			14	89
"	" 5,	"	" 95			14	89
"	" 5,	"	" 96			14	89
"	" 5,	"	" 97			14	89
"	" 5,	"	" 98			14	89
"	" 5,	"	" 99			14	89
"	" 5,	"	" 100			14	89

Amounting in the aggregate to $295.55, for which the sum of two hundred and ninety-five $\frac{55}{100}$ dollars was paid to the said Alexander C. Stalcup, as county treasurer, on the condition that if any of said coupons were rejected by the treasurer of the State of Illinois coupons were to be returned and money refunded; that all of said coupons were remitted to the treasurer of the State of Illinois by registered letter from Benton on the 16th day of April, 1880, in part payment of registered bond tax for the year 1879, which said tax was levied or assessed by the auditor of public accounts to
380 provide for the payment of the interest accrued, and to accrue, on Franklin county, Illinois, registered bonds issued in aid of the Belleville and Eldorado railroad; that said coupons hereinbefore described were all received by said State treasurer in lieu of money in settlement of said registered bond tax, and was a part of the sum of $3,366.65, for which the said State treasurer gave receipt to the said W. D. Seeber, dated April 20th, 1880; that the coupons hereinbefore mentioned, those from bonds numbered 9, 16, 17, and 19, were issued under the act of 1849; the remainder of said coupons were from bonds issued under the act of 1861.

HENRY HUDSON.

Subscribed and sworn to before me this 6th day of June, 1882.

JOHN MULKEY,
Master in Chancery.

Affidavit of Alexander C. Stalcup.

Alexander C. Stalcup, being first duly sworn, on his oath states: That he is the treasurer of Franklin county, in the State of Illinois, and that he held that office during the year 1880; that the fore-
381 going statement under oath of Henry Hudson has been read to him; that affiant was verbally directed by the board of county commissioners of said Franklin county to collect for said Franklin county from James Hill and Company the sum of three hundred dollars, which was due to the county from said James Hill & Co.; that affiant made demand on said James Hill and Co. for said sum of three hundred dollars in the early part of the year 1880; affiant thinks it was either in the month of December, 1879, or in the month of January, 1880; that upon demanding said sum of said James Hill & Co., James Hill, of said firm, stated that they could not pay said claim in money; but if coupons that were due taken from Franklin county, Illinois, bonds, issued in aid of the Belleville and Eldorado railroad, would be acceptable, they would pay the said claim; that affiant went to said board of county commissioners, which said board was at the time in session, and stated to them that said James Hill and Co. would pay the said claim in coupons of Franklin county, Illinois, bonds hereinbefore described;
382 that said county commissioners verbally directed me to receive said coupons in payment of said claim; that affiant received of said James Hill & Co. coupons amounting to two hundred and ninety-five & $\frac{55}{100}$ dollars on account of said claim and the remainder in money; that said county commissioners verbally directed affiant to collect the money on said coupons, and on the 16th day of April, 1880, affiant surrendered said coupons and received the money therefor from Wm. D. Seeber, who was, at the date last aforesaid, sheriff and *ex-officio* collector of said Franklin county; that said sum of money received for said coupons was duly placed to the credit of said county on treasurer's account with said county, and duly reported to said board of county commissioners. Affiant further states that the coupons referred to in the aforesaid statement of Henry Hudson are the same coupons received by affiant from James Hill & Company, and on which affiant collected the money in behalf of said Franklin county.

ALEXANDER C. STALCUP.

383 Subscribed and sworn to before me this 6th day of June, A. D. 1882.

JOHN MULKEY,
Master in Chancery.

Fees, paid by German Savings Bank of Davenport, Iowa, $3.00.

JOHN MULKEY,
Master in Chancery.

(Indorsed:) Filed June 17, 1882. J. A. Jones, clerk.

384 *Depositions of Charles A. Akin and William R. Ward, on behalf of the County of Franklin, Ills.*

STATE OF ILLINOIS, } ss:
Franklin County, }

In the Circuit Court of the United States.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE AND ELDORADO RAILROAD COMPANY *et al.*

The following depositions of Charles A. Akin and William R. Ward, witnesses produced, sworn, and examined on the part of the plaintiff on this 6th day of June, A. D. 1882, in accordance with the stipulations of the attorneys, hereunto attached, T. J. Laymon appearing for the plaintiffs, and E. E. Cook appearing for the German Savings Bank, and all the defendants represented by Samuel P. Wheeler.

Deposition of Charles A. Akin.

CHARLES A. AKIN, being first duly sworn according to law, testified as follows:

Int. 1st. Please state your name, age, residence, and occupation.

Answer. Charles A. Akin; age, 31 years; residence, Benton, Franklin county, State of Illinois; occupation, clerk of the county court of Franklin & State of Ills., and have been continuously ever since December, 1877.

[Int.] State if you have examined all the records of said
385 county relating to the election and subscription of stock by said county to the capital stock of the Belleville & Eldorado Railroad Company.

Ans. I have examined all the records of the county clerk's office relating to said matter.

Int. Have you made copies of all the records relating to the same?

Ans. I have made copies of all the said records.

Int. Will you please attach the same hereto as Exhibit —?

(The defendants, represented by Samuel P. Wheeler and Cook & Dodge, object to all of the said record, excepting that part of said record relating to the proceedings of the board of supervisors about the dismissal of the bill in equity, because said portions of the record are immaterial and irrelevant as against the *bona fide* holders of the bonds in controversy.)

Ans. I herewith hand the copies of the record, duly certified, to the master, marked Exhibit "A;" and there are no other orders
386 or resolutions relating to said matter that I know anything about or can find in my office.

Cross-examination waived by the attorneys for the defendants.

CHAS. A. AKIN.

Subscribed and sworn to before me this 6th day of June, 1882.

JOHN MULKEY,
Master in Chancery.

Deposition of W. R. Ward.

W. R. WARD, being duly sworn according to law, upon his oath states as follows:

Int. 1st. Please state your name, age, residence, & occupation.

Answer. William R. Ward; age, 33; residence, Benton, Franklin county, State of Illinois; merchant and banker, and at present vice-president of the Belleville and Eldorado Railroad Company. I was made a director of said company in the spring of 1877. There was some grading done in the spring of the year of 1877 in this county. There was no work done in grading or track-laying on the Belleville and Eldorado railroad prior to January, 1877; if there was
387 anything done in reference to constructing said railroad prior to said date it was surveying and obtaining right of way within Franklin county. The first four miles of said railroad in the county was completed in the fall of 1877, from the east line of the county to Thompsonville, in Franklin county. The road was completed to Benton, ten miles west of Thompsonville, in the fall of 1878 (by the first day of September, 1878); Benton is the county seat of Franklin county. The road was completed through the county about the 1st day of November, 1879; all the foregoing statements are made from memory without any reference to any memorandas. There was no part of said railroad completed within Franklin county prior to January, 1877.

(The defendants, represented by Samuel P. Wheeler and Cook & Dodge, object to all the evidence in the foregoing deposition as to the time when said railroad was built or completed, because any evidence of that nature is immaterial and irrelevant as against the *bona fide* holders of the bonds in controversy.)

Cross-examination waived.

W. R. WARD.

388 Subscribed and sworn to before me this 6th day of June, A. D. 1882.

JOHN MULKEY,
Master in Chancery.

STATE OF ILLINOIS, } *ss:*
Franklin County, }

I, John Mulkey, master in chancery within and for said county and State, do hereby certify that the foregoing depositions were taken before me on the 6th day of June, 1882, and that all the interrogatories and answers were read to the witnesses by me after they were written down, before they signed, and were sworn to the same.

Given under my hand at my office in Benton in said county, this 6th day of June, A. D. 1882.

JOHN MULKEY,
Master in Chancery.

389 *Stipulation for Taking Depositions.*

In the Circuit Court of the United States for the Southern District of Illinois.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE AND ELDORADO RAILROAD COMPANY *et al.*

It is hereby agreed between the solicitors for the complainant and the solicitors for the defendants, who have answered the bill of complaint, that the depositions of Charles A. Akin, W. W. Hoskinson, W. J. N. Moyers, William R. Ward, Z. Hickman, and Henry Hudson may be taken upon oral interrogatories at Benton, in Franklin county, Illinois, on the 6th day of June, A. D. 1882, before John Mulkey, master in chancery of said Franklin county, at his office in Benton, in said county, commencing at the hour of ten o'clock a. m., and continued from day to day until the taking of said depositions is finished. Also, defendants at same time and place may take any evidence they may wish.

390 Notice of the taking of said depositions is waived, and it is expressly understood and agreed that they may be used upon the trial of said cause the same as if regularly taken according to the rules of practice governing the taking of depositions in cases pending in the said court.

Dated this 27th day of May, A. D. 1882.

SAMUEL P. WHEELER,
Sol'r for Def'ts in Part.
THOS. J. LAYMAN,
Sol. for Comp't.
COOK & DODGE,
Att'ys for The German Savings Bank of Davenport, Iowa.

391 EXHIBIT "A" to deposition of Charles A. Akin.

At a special term of the county court began and held at the courthouse, in Benton, on Saturday, July the 24th, A. D. 1869.

Present: Hon. William E. Smith, county judge; James M. Akin and Isham Harrison, associate justices; C. M. Clark, county clerk; and William B. Denning, sheriff.

Court opened by proclamation, when the following order was made, to wit:

Be it ordered by the court, That by authority of an act of the General Assembly of the State of Illinois entitled an Act to incorporate the Belleville and Eldorado Railroad Company, approved February 22nd, A. D. 1861, and an act of the General Assembly, approved November the 6th, A. D. 1849, authorizing counties to take stock in railroad companies, notice is hereby given that on Saturday, the eleventh day of September, A. D. 1869, in the various precincts in the county of Franklin and State of Illinois, at the usual voting places, an election will be held upon the question whether or not the county of Franklin shall subscribe the sum of two hundred thou-

sand dollars ($200,000.00) to the capital stock of the Belleville
392 and Eldorado Railroad Company, payable in county bonds at par, due in twenty years from date, with interest payable semi-annually at the rate of eight per cent. per annum, and to be of the denominations of not less than one thousand dollars each, said bonds to be issued upon the following conditions, and not until they are complied with:

1st. That the said railroad shall be located through Franklin county, running from Duquoin, in Perry county, to the town of Raleigh, in Saline county, within one-quarter of a mile of the court-house in the town of Benton, in said Franklin county, and that a station be there located, and a passenger and freight-house erected within said quarter of a mile of the court-house.

2nd. That said railroad shall be commenced in the county of Franklin within nine months from the date of said election, and completed through the county by the 1st day of June, 1872.

3rd. That one hundred thousand dollars of said bonds payable on said stock shall be delivered to said company when said rail-
road is in running order to, and a station located at, Benton,
393 and one hundred thousand dollars of said bonds to be so delivered when the said railroad is completed and in running order, through said Franklin county.

4th. That there be not less than three stations located in the county—one at Benton as aforesaid, one between Benton and Duquoin, and one between Benton and Gallatia.

5th. That said election shall be opened at 8 o'clock in the morning and continue open until 6 o'clock in the afternoon, and shall be conducted by the judges of elections appointed for the November election in 1868, if present; if not, judges may be chosen as at other elections.

6th. That persons voting at such election for subscription shall have written or printed on their tickets "For subscription." Those voting against subscription shall have have written or printed on their tickets "Against subscription."

7th. And provided, also, That said subscription shall receive a num-
ber of votes equal to a majority of all the votes cast in said
394 county at the last general election for county officers.

* * * * * * *

SATURDAY, *November 6th, A. D.* 1869.

County court met pursuant to adjournment.

Among other proceedings the following were had, to wit:

Whereas in the various precincts of the county of Franklin and State of Illinois, at the usual voting places therein, on Saturday, September the eleventh, A. D. 1869, an election was held in pursuance of an order made at a special term of the Franklin county court began and held at the court-house in Benton on Saturday, the 24th day of July, A. D. 1869, upon the question whether or not the county of Franklin should subscribe the sum of two hundred thousand dollars to the capital stock of the Belleville and Eldorado Railroad Company, payable in county bonds at par, due twenty years from

date, with interest payable semi-annually at the rate of eight per cent. per annum, and to be of the denominations of not less than one thousand dollars each; and whereas at such election
395 the qualified voters of said county did, by a majority of their votes (taking as a standard the number of votes cast for county officers at the last general election previous to the vote had upon the question of subscription as aforesaid), authorize the county court of said Franklin county to subscribe the sum of two hundred thousand dollars to the capital stock of the said Belleville and Eldorado Railroad Company:

Therefore at an adjourned term of the Franklin county court began and held at the court-house in Benton Friday, November the fifth, A. D. 1869—present, Hon. W. E. Smith, county judge; J. M Akin & Isham Harrison, associates, C. M. Clark, county clerk; and Wm. B. Denning, sheriff—the following order was entered—that is to say:

It is considered and ordered by the court that by authority of the vote at the election aforesaid, held in the county of Franklin on the eleventh day of September, A. D. 1869, and by authority of an act of the General Assembly of the State of Illinois entitled An act to incorporate the Belleville and Eldorado Railroad Company, approved February 22nd, 1861, and an act of the said General Assembly,
396 approved November the 6th, A. D. 1849, authorizing counties to take stock in railroad companies, that the county of Franklin, in the State of Illinois, does hereby subscribe to the capital stock of the Belleville and Eldorado Railroad Company the sum of one hundred thousand dollars, by virtue of the said act of the General Assembly of the State of Illinois entitled "An act to incorporate the Belleville and Eldorado Railroad Company, approved February 22nd, A. D. 1861; and the further sum of one hundred thousand dollars, by virtue of an act of the said General Assembly, approved November the 6th, A. D. 1849, authorizing counties to take stock in railroad companies, making a total of two hundred thousand dollars hereby subscribed to the capital stock of the said Belleville and Eldorado Railroad Company. That said capetal stock, so subscribed as aforesaid, be payable in the bonds of the county of Franklin at par. said bonds to be due in twenty years from the date thereof, and to draw interest, payable semi-annually, at the rate of eight per cent. per annum, said bonds to be of the denomina-
397 tions of not less than one thousand dollars each. It is further ordered and considered by the court that said bonds are to be issued upon the following conditions, and never until they are complied with—that is to say:

1st. That said railroad shall be located through Franklin county, running from Duquoin, in Perry county, to the town of Raleigh, in Saline county, within one-quarter of a mile of the court-house in the town of Benton, in the said Franklin county, and that a station be there located, and a passenger and freight house erected within said quarter of a mile of the said court-house.

2nd. That said railroad shall be commenced in the county of

Franklin within nine months from the date of said election, and completed through the county by the first day of June, A. D. 1872.

3rd. That one hundred thousand dollars of said bonds payable on said stock shall be delivered to said company when said railroad is in running order and the necessary cars running thereon
398 from Duquoin or El Dorado to Benton and a station located at Benton, and one hundred thousand dollars of said bonds to be so delivered when the said railroad is completed and in running order and the necessary rolling-stock thereon through said Franklin county.

4th. That there be not less than three stations located in the said county of Franklin—one at Benton, as aforesaid, one between Benton and Duquoin, and one between Benton and Gallatia.

5th. That at the time said bonds are issued and stock received said railroad, its fixtures and rolling stock, are not to be mortgaged for more than the actual cash value of the same, and that there be no mortgage or lien upon the same under which said railroad fixtures or rolling-stock can or may be exposed to sale within a shorter time than twenty-five years from the date of such mortgage or lien.

* * * * * * *

MONDAY, *February 6th, A. D.* 1871.

At a special term of the county court began and held at the court-house in Benton on Monday, February 6th, 1871.

399 Present: Hon. D. M. Browning, Co. judge; J. M. Akin & Gilbert G. Sweeten, associate justices; C. M. Clark, Co. cl'k; Caroll Moore, sheriff.

Court opened by proclamation.

Whereas by an order of this court made the 6th day of November, A. D. 1869, a subscription of two hundred thousand dollars was ordered to be made to the Belleville and Eldorado Railroad Company; and whereas said subscription required that the said railroad should be commenced in the county of Franklin within nine months from the date of the election authorizing said subscription to be made, to wit, on the eleventh day of June, A. D. 1870, and completed through said county by the first day of June, A. D. 1872; and whereas the time for commencing building of the said railroad has expired: It is therefore ordered that the time for commencing and completing the said railroad be extended, and that the said subscription be made on the stock books of the Belleville and Eldorado Railroad Company upon the following terms and conditions, and not until they are fully complied with, to wit:

400 That said two hundred thousand dollars subscribed to said capital stock as aforesaid be payable in the bonds of the county of Franklin at par, said bonds to be due in twenty years from the date thereof, and to draw interest, payable semi-annually, at the rate of eight per cent. per annum, said bonds to be of the denominations of not less than one thousand dollars each; that said railroad shall be located through Franklin county, running from Duquoin, in Perry county, to the town of Raleigh, in Saline county, within one-quarter of a mile of the court-house, in the town of Ben-

ton, in the said Franklin county, and that a station be there located and a passenger and freight-house be erected within said quarter of a mile of the said court-house; that said railroad shall be commenced in the county of Franklin on or before the first day of January, A. D. 1872, and completed through the county by the first day of January, A. D. 1874; that one hundred thousand dollars of said bonds, payable on said stock, shall be delivered to said com-
401 pany when said railroad is in running order and the necessary cars propelled by steam running thereon from Duquoin or El Dorado to Benton as aforesaid and a station located at Benton, and one hundred thousand dollars of said bonds to be delivered when the said railroad is completed and in running order, and the necessary rolling-stock thereon, through said Franklin county; that there be not less than three stations located in the said Franklin county, one at Benton, as aforesaid, one between Benton & Duquoin and one between Benton and Gallatia.

Ordered, That court be now adjourned until court in course.

D. M. BROWNING, *Judge.*
JAMES M. AKIN, *Associate.*
GILBERT G. SWEETIN, *Associate.*

* * * * * * *

THURSDAY, *March 9th*, 1871.

Court met pursuant to adjournment.

Present: Same as yesterday.

Whereas at an election held in Franklin county, in the State of Illinois, in strict accordance with law, on the eleventh day of September, A. D. 1869, upon a proposition for Franklin county to subscribe
402 to two hundred thousand dollars to the capital stock of the Belleville and Eldorado Railroad Company, a majority of the legal voters of the county voted for the said subscription:

Now, therefore, the county of Franklin, of the State of Illinois, acting by the county judge and the associate judges of the Franklin county court, and attested by the official seal of said Franklin county, doth hereby subscribe the sum of two hundred thousand dollars for two thousand shares of the capital stock of the Belleville and Eldorado Railroad Company, said shares to be of the amount of one hundred dollars each; said stock is subscribed and the bonds to be issued upon the following conditions, and not until they are fully complied with, to wit: Said stock to be paid in Franklin county bonds at par, the bonds to be payable in twenty years after date, with interest at eight per cent. per annum, payable semi-annually in New York, the bonds to be of the denomination of one thousand dollars each, with coupons for the interest attached thereto, the said county bonds to be delivered to said company as follows:

403 One hundred thousand dollars of said bonds to be delivered when the section of said railroad extending from the eastern boundary of Franklin county to Benton is complete-, in good running order, and a train of cars propelled by steam shall have run over the same, and one hundred thousand dollars of said bonds to be delivered when the section of said railroad extending from

Benton to the other boundary of Franklin county is completed, and a train of cars propelled by steam shall have run over the same, it being left optional with the company which section of the railroad it will build first, and the bonds of the county due on either section of the road shall be delivered to said company when that section is completed and the cars shall have run over it to Benton as aforesaid; and said county bonds shall be valid and binding on the county from and after the delivery thereof to said company, and the faith of Franklin county is hereby pledged for the payment of the bonds issued to said Belleville and Eldorado Railroad Company; the said railroad to be commenced within the county in one year, and completed through the county within three years, from
404 the date of this subscription.

It is further provided that said railroad company shall erect a passenger and freight depot on said railroad at Benton within one quarter of a mile of the present court-house, and at least one other freight and passenger depot on said road between Benton and each of the county lines in said Franklin county through which the road shall run.

It is further provided that this subscription, and those previously made, shall not be construed as intending to subscribe more than two hundred thousand dollars to said Belleville and Eldorado Railroad Company or companies that may build railroads within said county.

Witness the signatures of the judges of the county court of Franklin county, Illinois, and the seal of said court this 9th day of March, A. D. 1871.

DANIEL M. BROWNING, *Co. Judge.*
JAMES M. AKIN, *Associate Judge.*
GILBERT G. SWEETEN,
Associate Judge.

Form of Bond to be Issued.

No. —. Franklin county bond, State of Illinois. Interest 8 per cent., payable semi-annually.

405 Know all men by these presents that the county of Franklin, in the State of Illinois, acknowledge- itself indebted and firmly bound to the Belleville and Eldorado Railroad Company, or bearer, in the sum of one thousand dollars; which sum the said county, for value received, promises to pay said company, or bearer, in the city and State of New York, twenty years after date, with interest thereon from the — day of ——, 187–, at the rate of eight per cent. per annum, payable semi-annually on the first days of January and July in each year, on presentation and surrender at the place, in the city of New York, where the treasurer of the State of Illinois pays the interest and debt of State, of the coupons hereto attached, as they severally become due.

This bond is one of two hundred of like tenor and amount of same issue, and it is issued pursuant to an order of the county court of said county authorized by a majority of the votes cast at an elec-

tion held in said county pursuant to law on the 11th day of September, A. D. 1869.

In testimony whereof the said county of Franklin has exe-
406 cuted this bond by the county judge of said county under the order of the county court of said county, signing his name hereto, and by the clerk of said court, under the order thereof, attesting the same and affixing hereto the seal of said court.

Done at the office of the clerk of said court this — day of ——, A. D. 1872.

[SEAL.]

—— ——,
County Judge of Franklin Co.
—— ——, *Clerk.*

40 Coupon.

BENTON, FRANKLIN COUNTY, ILLINOIS, 187–.

The county court of Franklin promises to pay the sum of forty dollars on the first day of ——, 187–, being six months' interest on bond No. 1 for $1,000. This coupon is payable in the city of New York, at the place where the treasurer of the State of Illinois — interest on the State debt.

—— ——,
Clerk of County Court.

407 *Proceedings of the Board of Supervisors, 3rd Day, June Term, 1872.*

JUNE 5TH, 1872.

On motion of Mr. Fitts, the following resolution was adopted, to wit:

STATE OF ILLINOIS, } ss:
Franklin County, }

JUNE 5TH, 1872.

Resolved by the board of supervisors of said county, That we are opposed to issuing bonds to aid in the construction of the Belleville and Eldorado railroad, to be placed in the hands of a trustee, as asked for by President J. J. Castles in his contract read before this board on yesterday, and that we will not issue said bonds to be applied on said contract under any condition unless compelled to do so by law either before or after the completion of said railroad.

M. FITTS.

408 *Proceedings of the Board of Supervisors, 3rd Day, June Term, 1872.*

WEDNESDAY, *June 5th*, 1872.

On motion of Jesse G. Mitchell, the following resolution was offered, to wit:

STATE OF ILLINOIS, } ss:
Franklin County, }

JUNE 5TH, 1872.

Whereas, on the 24th day of July, 1869, the court of the aforesaid

county passed an order, in conformity with law, authorizing the voters of said county to vote for or against subscribing $200,000.00 to the capital stock of the Eldorado R. R. Company; and whereas, on the 11th day of September, 1869, the legal voters did, by the required majority, vote in favor of subscribing said $200,000.00 stock; and whereas, on the 15th day of November, 1869, the aforesaid county court, in conformity with the express will of a majority of the legal voters of the aforesaid county, did subscribe $200,000.00 to the capital stock of said Belleville and Eldorado R. R. Company; and whereas, on the 9th day of March, 1871, the county court of the aforesaid county did resubscribe said $200,000.00 stock and extend the time for the completion of a railroad through said county to
409 three years from that date: Therefore

Resolved, That we, the board of supervisors of the aforesaid county, have no disposition to tram-el or repudiate any of the acts of the aforesaid county court to carry into effect the expressed will of the voters of the aforesaid county, but when said Belleville and Eldorado Railroad Company shall, under a *bona fide* contract, have in course of construction a railroad through the aforesaid county, in conformity with the express will of the legal voters of the aforesaid county, moving in sympathy and union with the people, we stand ready, without compulsion, to aid said railroad company by all legal and prudential means in the completion of said railroad.

J. G. MITCHELL, *Mover.*

The vote stood:

For the resolution—J. G. Mitchell, Isaac Ward.

Against the resolution—M. Fitts, Wm. J. Murphy, David Martin, Samuel McClelland, Peter Phillips, F. L. Rea, C. F. Mulkey, John H. Hogan, John A. Walker.

410 On motion the following resolution was received and adopted, to wit:

Whereas there has been a proposition submitted to the board for them to renew the county subscription to the captital stock of the Belleville and Eldorado R. R. Co.; and whereas there has been no action taken by the board in relation thereto: It is resolved, That when the present session of the board adjourn it be to meet again in an adjourned session on Wednesday, 13th instant, for consideration and final action on the subject of the railroad subscription.

C. MOORE.

On motion the report of the committee appointed to confer with the railroad men be received and adopted, to wit:

STATE OF ILLINOIS, } *ss:*
Franklin County, }

Supervisors' Court. Special *Special* Dec. Term, '76.

We, the undersigned committee, appointed to confer with Hill & Nye, contractors of Belleville & Eldorado R. R. Co., would report that we have conferred with the contractors of said road, and that

they will not agree to build the road through Franklin county
411 for less than one hundred and fifty thousand dollars.

All of which is respectfully submitted.

WM. FLATT.
M. C. INGRAM.
C. MOORE.

Supervisors' Meeting.

December Term.

DECEMBER 13TH, 1876.

Court met pursuant to adjournment.

Among other proceedings the following were had, to wit:

On motion the following order was adopted, to wit:

Whereas in the various precincts of the county of Franklin and State of Illinois, at the usual voting places therein, on Saturday, September 11th, 1869, an election was held in pursuance of an order made at a special term of the county court of Franklin county, began and held at the court-house, in Benton, on Saturday, the 24th day of July, A. D. 1869, upon the question whether or not the county of Franklin should subscribe the sum of two hundred thousand dollars to the capital stock of the Belleville and Eldorado Railroad Company, payable in county bonds at par, due twenty years from date, with the privilege of paying after five years from date, with interest payable semi-annually, at the rate of eight per
412 cent. per annum, and to be of the denominations of not less than one thousand dollars each; and whereas at such election the qualified voters of said county did, by a majority of the votes (taking as a standard the number of votes cast for county officials at the last general election previous to the vote had upon the question of subscription as aforesaid) authorize the county court of said Franklin county to subscribe the sum of two hundred thousand dollars to the capital stock of said Belleville & Eldorado [Railroad] Company: Therefore, at a regular meeting of the board of supervisors of Franklin county, began and held at the court-house in the town of Benton, county of Franklin, and State of Illinois, on Wednesday, the 13th day of December, A. D. 1876—present: James M. Brayfield, chairman; Wm. Flatt, S. P. Kirkpatrick, L. Day, C. Moore, M. C. Ingram, M. B. Tyrrell, J. M. Weir, & J. N. Williams, members of the board of supervisors, with Evan Fitzgerrell, county clerk, and James M. Akin, sheriff—the following order was entered—that is to say:

It is considered and ordered by the board of supervisors of
413 said county, by the authority of the vote heretofore mentioned, and by the authority of an act of the General Assembly of the State of Illinois entitled An act to incorporate the Belleville and Eldorado Railroad Company, approved February 22nd, A. D. 1861, and an act of the said General Assembly, approved November 6th, A. D. 1849, authorizing counties to take stock in railroad companies, that the county of Franklin, in the State of Illinois, does hereby subscribe to the capital stock of the Belleville and Eldorado

Railroad Company the sum of one hundred and fifty thousand dollars, being seventy-five thousand dollars by virtue of each of the acts of the General Assembly herein mentioned; that said capital stock, so subscribed as aforesaid, be payable in the bonds of Franklin county aforesaid at par, said bonds to be due in twenty years, and may be paid after the expiration of five years from their date, at the option of the county, said bonds, as aforesaid, to draw interest at the rate of eight per cent. per annum, interest payable semi-annually, and to be of the denomination of not less than one thousand dollars each.

414 It is further ordered by the board of supervisors that the said bonds be issued and placed in the hands of a trustee, to be paid out upon the following conditions:

First. That said railroad shall be located through Franklin county, running from the junction of said road near the west line of Saline county, Illinois, to Duquoin, Perry county, Illinois, and within one-fourth of a mile of the court-house in the town of Benton, in said Franklin county, and that a station be there located, and a passenger and freight depot be there erected within said one-fourth of a mile of said court-house.

Second. That said railroad shall be commenced within thirty days of the date of this order, and completed by the 15th day of October, A. D. 1877.

Third. That seventy-five thousand dollars of said bonds be applied to the building of the road from said junction in Saline county to Benton, in Franklin county, and that seventy-five thousand dollars be applied to the building of the road from Benton to Duquoin, to be delivered and paid to the contractors as each mile of the road is completed under the contract in proportion to the whole

415 numbers of miles in each division built, and provided that the contract of building is to include the building of the whole road from Saline county to Duquoin.

Fourth. That there be not less than three stations located in said county of Franklin—one at Benton, as aforesaid, one between Benton and Duquoin, and one between Benton and the Saline county line.

Upon motion, the following resolution was adopted, to wit:

Resolved by the board, That R. Richeson be, and is hereby, appointed a commissioner on the part of the county to attend to getting the records made to conform to the requirements of the law, and the form of the bonds prepared to agree therewith, and to set forth the necessary facts on their face, and get the bonds lithographed, and return them here by the 23rd of this month; that the president of the board shall meet him at the county clerk's office, in the court-house, when notified by commissioner that the bonds are ready, and then and there the president of the board of supervisors and the county clerk shall sign and fill out said bonds

416 and register them in accordance with the provisions of law, when they shall be delivered to said R. Richeson, commissioner, who shall take them to Evansville, Indiana, and place them in the hands of either the National Banks of Evansville or the First

National Bank of Evansville, as trustees, to pay them out to the building contractors of the Belleville & Eldorado Railroad Com-Company by order of the Belleville & Eldorado Railroad Company, when the road is received by the said railroad company and county judge, and report to this board at next regular or special term.

C. MOORE.

DEC. 13, 1876.

On motion the following resolution or order was adopted, to wit:

Ordered by the board of supervisors of Franklin county, Illinois, That R. Richeson, commissioner, appointed to deliver bonds issued to the Belleville & Eldorado Railroad Company to trustee, be instructed to see that certificates of stock to the amount of one hundred and fifty thousand dollars be issued by the officers of the said Belleville & Eldorado Railroad Company to the county of Franklin,
417 in the State of Illinois, and placed in the hands of the trustee holding the bonds, to be delivered to the proper officer of Franklin county, Illinois, as the bonds are delivered to the railroad company. It is further ordered by the board of supervisors that the bonds issued to said railroad company and placed in the hands of the trustee shall be delivered to the contractors, as specified in previous order, as the building of the road progresses, but that they shall not be delivered until such section or mile of the road is received by the railroad company under the contract approved by the county judge of Franklin county, Illinois. It is further ordered by the board of supervisors that the coupons on bonds be due and payable on the first days of January and July of each year, at the place in the city of New York where the treasurer of Illinois pays the interest on the State debt, and that before the trustee delivers any portion of the bonds herein mentioned to the railroad company said trustee shall remove from said bond or bonds, and mark as
418 cancelled, any coupon or coupons due at the time the company and county judge report, as heretofore provided, the completion of any portion of said road. And in case a portion of a coupon is due only that a memorandum thereon be made by the trustee showing what amount is so due. And that the trustee report his action from time to time to this board, returning all cancelled coupons.

C. MOORE, *Mover.*

MAR. 6, 1877.

On motion the following resolution was adopted, to wit:

Resolved, That W. H. Williams or William R. Ward, of Benton, Illinois, and either of them, are hereby empowered and authorized to represent the stock of Franklin county, Illinois, now subscribed to the Belleville and Eldorado Railroad Company and vote said stock at the annual election for directors for said railroad company at the annual election to be held at Gallatia, Saline county, Illinois, on the seventh day of March, A. D. 1877, said stock amounting to the sum of one hundred and fifty thousand dollars

WILLIAM FLATT, *Mover.*

419 JUNE 20, 1877.

Whereas certain rumors are afloat in this county of a character calculated to injure the credit of the county bonds issued in favor of the Belleville & Eldorado R. R., and consequently damage the enterprise, and retard the work now in progress: Therefore,

Resolved, That we regard with disapproval any such rumors or any action of any person or persons who seek in any way to lessen the value of the Franklin county subscription to said R. R. as being opposed to the true interest of — county. And we hereby declare our intention to use all proper and rightful means to carry out the purpose of this board expressed in a former order for the subscribing of the stock and the issuing of the county bonds to pay for same.

On motion the above resolution was passed by the following vote:

Yeas—Wm. Flatt, J. M. Wier, J. K. Manion, L. Day, and J. J. St. Clair.

Noes—J. M. Brayfield, John W. Williams, S. P. Kirkpatrick, Jesse Taylor.

420 SEPT. 13, 1877.

On motion the following resolution was adopted, to wit:

Resolved by the board of supervisors of Franklin county, That we hereby extend to the directors of the Belleville & Eldorado Railroad Company further time for the building of said Belleville & Eldorado railroad until the 15th day of March, A. D. 1878.

J. M. WIER, *Mover.*

The yeas and nays being called for, resulted as follows:

Yeas—James K. Manion, L. Day, Wm. Flatt, J. M. Wier.

Nays—S. P. Kirkpatrick, John W. Williams, Jesse Taylor, James M. Brayfield.

It being a tie vote the chairman voted in the affirmative.

DEC. 13, 1876.

And now J. M. Wier, of Cave township, offered the following preamble and resolution, which were read, to wit:

Whereas at an adjourned meeting of the board of supervisors of Franklin county, Illinois, held in the court-house in Benton,
421 in said county, on Wednesday, the 13th day of December, A. D. 1876, the following was among the proceedings of said board—that is to say:

DECEMBER 13TH, 1876.

Court met pursuant to adjournment.

On motion the report of the committee appointed to confer with the railroad men be received and adopted, to wit:

STATE OF ILLINOIS, } ss:
Franklin County, }

Supervisors' Court. Special Dec. Term, '76.

We, the undersigned committee, appointed to confer with Hill &

Nye, contractors of the Belleville & Eldorado R. R. Co., would report that we have conferred with the contractors of said road and that they will not agree to build the road through Franklin county for less than one hundred and fifty thousand dollars; all of which is respectfully submitted.

WM. FLATT.
M. C. INGRAM.
C. MOORE.

On motion the following order was adopted, to wit:

422 Whereas, in the various precincts of the county of Franklin and State of Illinois, at the usual voting places therein, on Saturday, September 11th, A. D. 1869, an election was held in pursuance of an order made at a special term of the county court of Franklin county began and held at the court-house in Benton on Saturday, the 24th day of July, A. D. 1869, upon the question whether or not the county of Franklin should subscribe the sum of two hundred thousand dollars to the capital stock of the Belleville and Eldorado Railroad Company, payable in county bonds at par, due in twenty years from date, with the privilege of paying after five years from date, with interest, payable semi-annually, at the rate of eight per cent. per annum, and to be of the denomination of not less than one thousand dollars each:

And whereas at such election the qualified voters of said county did, by a majority of the voters (taken as a standard the number of votes cast for county officers at the last general election pre-
423 vious to the votes had upon the question of subscription, as aforesaid), authorize the county court of said Franklin county to subscribe the sum of two hundred thousand dollars to the capital stock of the said Belleville and Eldorado Railroad Company:

Therefore, at a regular meeting of the board of supervisors of Franklin county, began and held at the court-house in the town of Benton, county of Franklin and State of Illinois, on Wednesday, the 13th day of December, A. D. 1876—present: James M. Brayfield, chairman; Wm. Flatt, S. P. Kirkpatrick, L. Day, C. Moore, M. C. Ingram, M. B. Tyrell, J. M. Wier, J. W. Williams, members of the board of supervisors, with Evan Fitzgerrell, county clerk, and James M. Akin, sheriff—the following order was entered—that is to say:

It is considered and ordered by the board of supervisors of said county, by the authority of the vote heretofore mentioned, and by the authority of an act of the General Assembly of the State of Illinois entitled An act to incorporate the Belleville & Eldorado
424 Railroad Company, approved February 22nd, A. D. 1861, and an act of the said General Assembly, approved November, 6th, A. D. 1849, authorizing counties to take stock in railroad companies, That the county of Franklin, in the State of Illinois, does hereby subscribe to the capital stock of the Belleville and Eldorado Company the sum of one hundred and fifty thousand dollars, being seventy-five thousand dollars by virtue of each of the acts of the General Assemby mentioned. That said capital stock, so subscribed as aforesaid, be payable in the bonds of Franklin

county aforesaid at par, said bonds to be due in twenty years, and may be paid after the expiration of five years from this date, at the option of the county; said bonds to draw interest at the rate of eight per cent. per annum, interest payable semi-annually, and to be of the denominations of not less than one thousand dollars each.

It is further ordered by the board of supervisors, That the said bonds be issued and placed in the hands of a trustee to be
425 paid out upon the following conditions:

First. That said railroad shall be located through Franklin county, running from the junction of said road near the west line of Saline county, Illinois, to Duquoin, Perry county, Illinois, and in one-fourth of a mile of the court-house, in the town of Benton, in said Franklin county, and that a station be there located, and a passenger and freight depot be there erected within said one-fourth of a mile of said court-house.

Second. That said railroad shall be commenced within thirty days from the date of this order, and completed by the fifteenth day of October, A. D. 1877.

Third. That seventy-five thousand dollars of said bonds be applied to the building of the said road from said junction in Saline county to Benton, in Franklin county, and that seventy-five thousand dollars be applied to the building of the road from Benton to Duquoin, to be delivered and paid to the contractors as each
426 mile of the road is completed under the contract, in proportion to the whole number of miles in each division built: And provided, That the contract of building is to include the building of the whole road from Saline county to Duquoin.

Fourth. That there be not less than three stations located in said county of Franklin—one at Benton, as aforesaid; one between Benton and Duquoin, and one between Benton and the Saline county line.

The yeas and nays being demanded on the adoption of the above order, the vote stood as follows:

Yeas—C. Moore, M. B. Tyrell, J. M. Wier, L. Day, William Flatt.
Nays—M. C. Ingram, J. W. Williams, S. P. Kirkpatrick.

The chairman of the board requested that the record show that he was opposed to the adoption of the above order.

It appearing that a majority of the members of the board voted in favor of adopting the above order, it was so declared.

Upon motion, the following resolution was adopted, to wit:
427 Resolved by the board, That R. Richeson be, and he is hereby, appointed a commissioner on the part of the county to attend to getting the records made to conform to the requirements of the law, and the form of the bonds prepared to agree therewith, and to set forth the necessary facts on their face, and get the bonds lithographed, and return them here by the 23rd of this month. That the president of the board shall meet him at the county clerk's office in the court-house when notified by commissioner that the bonds are ready, and then and there the president of the board of supervisors and the county clerk shall sign and fill out said bonds,

and register them in accordance with the provisions of law, when they shall be delivered to said R. Richeson, commissioner, who shall take them to Evansville, Indiana, and place them in the hands of either the National Bank of Evansville, or the First National Bank of Evansville, as trustees, to pay them out to the building contractors of the Belleville and Eldorado Railroad Company, by order of the Belleville and Eldorado Railroad Company, when the road is received by the railroad company and county judge, and
428 report to this board at next regular or special term.

C. MOORE.

Supervisors' Record, Page 367.

DECEMBER 13th, 1876.

On motion, the following resolution or order was adopted, to wit:

Ordered by the board of supervisors of Franklin county, Illinois, That Richard Richeson, commissioner appointed to deliver bonds issued to the Belleville & Eldorado Railroad Company, to trustee, be instructed to see that certificates of stock to the amount of one hundred and fifty thousand dollars be issued by the officers of the Belleville and Eldorado Railroad Company to the county of Franklin, in the State of Illinois, and placed in the hands of trustees holding the bonds to be delivered to the proper officers of Franklin county, Illinois, as the bonds are delivered to the railroad company.

It is further ordered by the board of supervisors that the bonds issued to the said railroad company, and placed in the hands
429 of the trustee, shall be delivered to the contractors, as specified in previous order, as the building of the road progresses, but that they shall not be delivered until such section or mile of road is received by the railroad company, under the contract approved by the county judge of Franklin county, Illinois.

It is further ordered by the board of supervisors that the coupons on bonds be due and payable on the first day of January and July of each year, at the place in the city of New York where the treasurer of Illinois pays the interest on the State debt.

And that before the trustee delivers any portion of the bonds herein mentioned to the railroad company *shall* trustee shall remove said bond or bonds, and mark as cancelled any coupon or coupons due at the time the company and county judge report, as heretofore provided, the completion of any portion of said road. That in case a portion of a coupon is due only, that a memorandum thereon be made by the trustee, showing what amount is so due; and
430 that the trustee report his action from time to time to this board, returning all cancelled coupons.

C. MOORE.

And whereas James M. Brayfield, as chairman of said board of supervisors, and Evan Fitzgerrell, as clerk of said board, in pursuance of the order of said board of supervisors above recited, did, on the 22nd day of December, A. D. 1876, execute 150 bonds of said Franklin county of the denomination of $1,000.00 each, payable to the

Belleville and Eldorado Railroad Company twenty years after date, redeemable at the option of the county after five years, with interest from and after the first day of January, A. D. 1877, at the rate of 8 per cent. per annum, payable semi-annually on the first day of January and July of each year, which said bonds had the following recitals, to wit:

This bond is one of one hundred and fifty of like tenor and amount of the same issue, and it is issued pursuant to an order of the board of supervisors of said county, authorized by a majority of the legal votes cast at an election held in said county pursuant to law on the 11th day of September, A. D. 1869.

431 This bond is also issued under the provisions of an act to incorporate the Belleville and Eldorado Railroad Company, approved February 22nd, 1861, and an act of the General Assembly of the State of Illinois, approved November 6th, A. D. 1849, authorizing counties to take stock in railroad companies. And whereas, in pursuance of said order of said board of supervisors, Richard Richeson, who was appointed by said board as commissioner for that purpose, conveyed said bonds to Evansville, in the State of Indiana, and deposited the same with the Evansville National Bank as trustee for said Franklin county and said railroad company; and whereas the said railroad company did, on its part, deposit with said trustee, to wit, the said Evansville National Bank, certificates of stock in said railroad company, payable to said Franklin county, amounting in the aggregate to one hundred and fifty thousand dollars; and whereas the said board of supervisors of Franklin county, Illinois, at its September term, A. D. 1877, extended to the directors of

432 said railroad company the time in which said road was to be completed, extending said time until the 15th day of March, A. D. 1878; and whereas the said railroad company are progressing with the construction of said road in said Franklin county, and have fully completed one mile of said railroad within the said county of Franklin, and that cars propelled by steam are & have been run thereon; and whereas the directors of said railroad company have applied to the board of supervisors of said county to change the wording in the bonds executed as aforesaid:

It is therefore considered and ordered by the board of supervisors of Franklin county, in the State of Illinois, that the order of said board made on the 13th day of December, A. D. 1876, subscribing $150,000.00 to the capital stock of the Belleville and Eldorado Railroad Company be, and the same is hereby, amended as follows, to wit: That said order subscribing said stock read as follows,

433 to wit: That the county of Franklin, in the State of Illinois, under the provisions of an act of the General Assembly of the State of Illinois, entitled An act to incorporate the Belleville and Eldorado Railroad Company, approved February 22nd, A. D. 1861, authorizing subscription to the capital stock of said railroad, and in accordance with the majority of votes cast at an election held in said Franklin county in conformity with said act, on the 11th day of September, A. D. 1869, does hereby subscribe the sum of one hundred thousand dollars to the capital stock of the Belleville and

Eldorado Railroad Company, payable in bonds of said Franklin county at par; said bonds to be due twenty years after the date thereof, and payable at the option of said Franklin county; after five years said bonds to bear interest from date at the rate of eight per cent. per annum, payable semi-annually; said bonds to be of the denomination of one thousand dollars each, and that the county of Franklin, in the State of Illinois, under the provisions of an act of the General Assembly of the State of Illinois, entitled An act to
434 authorize cities and counties to subscribe stock to the railroad, approved November 6th, A. D. 1849, and under the authority as evidenced by a majority of the qualified voters of said Franklin county, at an election held in said county, in conformity with the provisions of said act, on the 11th day of September, A. D. 1869, does hereby subscribe the sum of fifty thousand dollars to the capital stock of the Belleville and Eldorado Railroad Company, payable in bonds of said Franklin county at par, said bonds to be due twenty years after the date thereof, and payable at the option of said Franklin county after five years, said bonds to bear interest from date at the rate of eight per cent. per annum, payable semi-annually, said bonds to be of the denomination of one thousand dollars each.

It is therefore considered and ordered by the board of supervisors of Franklin county and State of Illinois that the chairman of the board of supervisors of said Franklin county and the clerk thereof are hereby ordered and directed to execute bonds of said
435 Franklin county in payment of said amended subscription to the capital stock of the Belleville and Eldorado Railroad Company, as follows, to wit: That said chairman and said clerk execute one hundred bonds of said Franklin county of the denomination of one thousand dollars each, payable to the Belleville and Eldorado Railroad Company or bearer twenty years after the date thereof, and payable at any time after five years and before said bonds become due, at the option of said Franklin county, with interest thereon from the date thereof at the rate of eight per centum per annum, payable semi-annually, on the first of January and July of each year, said bonds and the interest thereon to be made payable in the city and State of New York, at the place where the treasurer of the State of Illinois pays the interest and debt of said State, said bonds to be executed in conformity with and under the provisions of an act of the General Assembly of the State of Illinois entitled An act to incorporate the Belleville and Eldorado Railroad Company, approved
436 February 22nd, A. D. 1861, authorizing subscriptions to the capital stock of said railroad company, and in accordance with the majority of the votes cast at an election held in said county, in conformity with the provisions of said act on the 11th day of September, A. D. 1869. It is further ordered by said board of supervisors of said Franklin county that the chairman of said board of supervisors and the clerk thereof are here hereby ordered and directed to execute bonds of said Franklin county in payment of said amended subscription to the capital stock of the Belleville and Eldorado Railroad Company, as follows, to wit: That said chairman and said clerk execute fifty bonds of said Franklin county, of the

denomination of one thousand dollars each, payable to the Belleville and Eldorado Railroad Company, or bearer, twenty years after the date thereof, and payable at any time after five years, and before said bonds become due, at the option of said Franklin county, with interest thereon, from the date thereof at the rate of eight
437 per centum per annum, payable semi-annually, on the first day of January and July of each year. Said bonds, and the interest thereon, to be made payable in the city and State of New York at the place where the treasurer of the State of Illinois pays the interest and debt of said State. Said bonds to be executed in conformity with and under the provisions of an act of the General Assembly of the State of Illinois entitled An act to authorize cities and counties to subscribe stock to railroads, approved November 6th, 1849, and as authorized by a majority of the qualified voters of said Franklin county at an election held in said county, in accordance with the provisions of said act, on the 11th day of September, A. D. 1869.

It is further ordered by the board of supervisors of said Franklin county that the clerk of said board make a record of said bonds and the coupons thereto attached, as required by law.

It is further considered and ordered by the board of supervisors that John J. St. Clair, chairman, and Joseph M. Weir, member, of said board, are hereby appointed commis-
438. sioners in behalf of said Franklin county, and said commissioners are hereby ordered and directed to safely convey said bonds above described when executed to the city of Evansville, and deposit the same with the Evansville National Bank, trustee as aforesaid, and take receipt therefor; said commissioners are further ordered and directed to receive from said trustee, in exchange for said bonds so deposited by them, the above-mentioned 150 bonds of said Franklin county, executed as aforesaid on the 22nd day of December, A. D. 1876, and that said commissioners are ordered to safely convey said bonds to the county of Franklin aforesaid and deliver the same to the said board of supervisors or its committee appointed to cancel and destroy the same.

It is further ordered by the board of supervisors of said Franklin county that said Evansville National Bank, trustee as aforesaid, receive said bonds to be executed pursuant to the order of said
439 board of supervisors at this special November term, A. D. 1877, and that said trustee hold said bonds and deliver the same to said railroad company only on the same conditions and under the same restrictions as specified in the order of said board of supervisors made as aforesaid on the 13th day of December, A. D. 1876.

J. M. WIER.

On motion, the foregoing preamble and orders *was* adopted by the following votes:

Yeas—J. M. Wier, L. Day, J. K. Manion, L. D. Walker, and John J. St. Clair.

Nays—James M. Brayfield, S. P. Kirkpatrick, and Jesse Taylor.

DEC. 4TH, 1877.

To the hon. board of supervisors [of] Franklin county, Illinois, now in session—to the chairman and gentlemen of the board:

Your committee, appointed to proceed to Evansville, Ind., and exchange the bonds, amounting to one hundred and fifty thousand dollars, ask leave to make the following report, to wit:

We have been to Evansville, Ind., and have made the ex-
440 change as directed by the board, and we submit with this report the receipt for new bonds, and also the old bonds; and we, your committee, resp't- recommend that the following members be a committee to destroy said old bonds at this meeting: J. M. Brayfield, J. W. Williams, and S. P. Kirkpatrick.

All of which is respectfully submitted.

J. J. ST. CLAIR.
J. M. WIER.

On motion, the foregoing report was received and committee discharged.

Afterward, to wit, on this day, J. J. St. Clair and Joseph M. Wier, commissioners as aforesaid, brought before the board of supervisors of Franklin county, Illinois, and delivered 150 county bonds, of the denomination of $1,000 each, with coupons attached, numbered from one to one hundred and fifty, inclusive, issued to the Belleville and Eldorado R. R. Company, made the 4th day of December, 1876, to J. M. Brayfield, J. W. Williams, & S. P. Kirkpatrick, committee appointed to receive, destroy, and cancel of record the aforesaid bonds & coupons.

Also the said St. Clair & Wier, commissioners as aforesaid,
441 presented to the board of supervisors the receipt of Henry Reis, cash'r of the Evansville Nat. Bank, for the 150 bonds of $1,000 each, deposited in lieu of old bonds as follows, to wit:

The bonds referred to in this receipt were this day, Nov. 14, 1877, withdrawn by Jno. J. St. Clair, pres't, and Jos. M. Wier, of the board of supervisors of Franklin county, Illinois, as per order of said board attached hereto, and new bonds, dated November 13th, 1877, deposited in lieu thereof and $150,000 in amount, and held subject to the order of the board of supervisors attached hereto, Exhibit A.

HENRY REIS, *Cash'r.*

And afterwards, to wit, on this day, comes Brayfield, Williams, and Kirkpatrick, committee as aforesaid, and make their report that they have destroyed the 150 bonds as aforesaid, & cancelled the same, with coupons attached, of record, and ask to be discharged; and, on motion, report received and committee discharged.

MAR. 4, 1878.

On motion, Resolved, That the chair appoint a committee
442 of three to examine all petitions in regard to extending time for building the Belleville and Eldorado Railroad Company and report by to-morrow. 1 o'clock p. m.

Motion carried, and the chairman appointed J. M. Brayfield, J. M. Wier, and J. K. Manion as such committee.

MARCH 5TH, 1878.

STATE OF ILLINOIS, } ss:
Franklin County, }

Supervisors' Court. March Term.

MARCH 5TH, A. D. 1878.

To the chairman and gentlemen of the board of supervisors:

Your committee, to whom was referred the petitions requesting this board not to extend the time further than the 15th day of March, 1878, to the Belleville & Eldorado Railroad Company to build the Belleville & Eldorado railroad, would represent that we have examined said petitions and find 1334 names on said petitions, but cannot vouch for the correctness of said petitioners, and would request said board to duly consider petitions.

All of which is respectfully submitted.

JAS. K. MANION.
J. M. WIER.

On motion, report of committee received and committee
443 discharged.

Resolved by the board of supervisors of Franklin county, That we hereby extend to the board of directors of the Belleville & Eldorado Railroad Company further time for the building of said railroad until the 15th day of Sept., 1878.

J. M. WIER.

March 5th, 1878.

Resolved by the board of supervisors of Franklin county, That we hereby extend to the board of directors of the Belleville and Eldorado Railroad Company further time for the building of said railroad until the 15th day of Sept., 1878.

J. M. WIER.

March 5th, 1878.

Motion and second that the above resolution be amended so as to read 1st day of May, instead of 15th day of September, 1878.

Vote on the adoption of the amendment stood:

Yeas—Brayfield, Taylor, Williams, Kirkpatrick.

Noes—Wier, Walker, Day, Manion, St. Clair.

444 Vote on the adoption of the resolution extending the time to the board of directors for the construction of the Belleville and Eldorado railroad stood:

Yeas—Wier, Walker, Doy, Manion, St. Clair.

Noes—Brayfield, Taylor, Williams, Kirkpatrick.

On motion of Isham Harrison, the following resolution was adopted:

Whereas one hundred and fifty of the railroad bonds of Franklin county, as bonds of this county, which were designed to be paid upon certain conditions to the Belleville & Eldorado Railroad Company for stock, for the sum of one thousand dollars each, were deposited with the Evansville National Bank, Evansville, Indiana,

as trustee, by the supervisors of said county, under and by virtue of an order of said board of supervisors made at the November special meeting thereof, A. D. 1877; and whereas there is doubt of the legality of placing said bonds out of the immediate cus-
445 tody and possession of this board:

Therefore it is ordered by the said board of supervisors of said county that Charles A. Akin, county clerk of said county, be, and he is hereby, appointed agent and commissioner for and on behalf of said county to proceed to Evansville, Indiana, at once, and for and on behalf of Franklin county demand and receive said bonds from said bank, and receipt for the same, and pay said bank all reasonable charges for keeping said bonds, and that said Charles A. Akin keep and retain the possession of the said bonds for and on behalf of this board of supervisors until otherwise directed by this board, or the successors thereof, and that said Charles A. Akin report to this board at its next meeting of his acts and doings under this order.

Dated this 22nd day of July, A. D. 1878.

(Signed) ISHAM HARRISON, *Mover.*

On motion, the above order was adopted by the board.
(September 9th, 1878.)

446 And now comes Chas. A. Akin, commissioner of and on behalf of Franklin county, appointed by this board to proceed to Evansville, Indiana, and demand the removal of the Franklin county railroad bonds to Benton, and makes his report as follows, to wit:

STATE OF ILLINOIS, } ss:
Franklin County, }

To the honorable chairman and members of the board of supervisors:

The undersigned, who was appointed by this board an agent or commissioner in regard to the bonds subscribed to the Belleville & Eldorado railroad, on behalf of Franklin county, and who was ordered by this board to proceed to Evansville, Indiana, and demand of the trustee of said bonds their surrender to him and their removal to Benton, Franklin county, Illinois, would beg leave to make the following report of his doings:

Immediately after the passage of said order by this board, I proceeded to Evansville, Indiana, and demanded of the president of the Evansville National Bank, of Evansville, Indiana, the deliv-
447 ery into my hands [of] the said bonds, and at the same time I presented to him a copy of the order of this court authorizing the same, and also a copy of his receipt showing that the bonds were deposited with him. I also tendered him *with* my receipt for said bonds; whereupon the said presedent of said bank, as such trustee, refused, upon the order of this court, to deliver into my hands said bonds; consequently I returned home without the said bonds. And I would further report that as such agent or commis-

sioner I have never obtained the possession of said bonds, or any part of them.

All of which is respectfully submitted.

CHAS. A. AKIN,
Commissioner on Behalf of Franklin County.

On motion, the above report was received and adopted by the board.

And now comes Isham Harrison and presents the following resolution, which was adopted by the board as follows, (to wit:)

STATE OF ILLINOIS, } ss:
Franklin County, }

448 To the chairman and board of supervisors of Franklin county, Illinois:

Resolved, That we request Judge D. M. Browning to make a report to this court as to the amount of Franklin county bonds he has signed as agent on behalf of Franklin county to the Belleville and Eldorado Railroad Company or the contractors of said road, said report to contain the numbers of the several bonds, and under what act issued; also, to show the amount of stock by certificates that has been given by said railroad company, and to make report to this board at one o'clock p. m. of this day.

Dated this September 16th, A. D. 1878.

On motion of James K. Manion, the chair appointed Isham Harrison a committee of one to inform D. M. Browning of the foregoing resolution; and, also, on motion of Isham Harrison, it is ordered by the board that the clerk furnish D. M. Browning with a copy of the above resolution.

Now comes D. M. Browning, county judge, and makes the following report, to wit:

449 STATE OF ILLINOIS, } ss:
Franklin County, }

To the hon. board of supervisors of Franklin county, Illinois:

The undersigned, county judge of Franklin county, Illinois, would respectfully report, in accordance with your resolution of this day, that under the contract made by your board, subscribing stock to the Belleville and Eldorado Railroad Company, I have given orders to James Hill and Co. for the Franklin county bonds, as each mile of said railroad was built, from Saline county, Illinois, to Benton, and under said orders James Hill & Co. have drawn from the Evansville National —, as trustee, $75,000 in Franklin county bonds, being bonds from No. 1 to 75, inclusive, issued under act of February 22nd, A. D. 1861, incorporating the Belleville and Eldorado Railroad Company. The Evansville National Bank, as trustee, holds subject to the order of the board of supervisors of this county $75,000.00 in

certificates of stock issued by said railroad company to Frank-
450 lin county, Illinois. There has been one-half of the bonds delivered, and one-half of the stock certificates deposited under the subscription made by your honorable body.

Respectfully submitted.

D. M. BROWNING.

Sept. 16th, 1878.

And now comes James Hill & Company and submit a proposition asking for an extension of the time for completing the Belleville and Eldorado railroad as follows, to wit:

STATE OF ILLINOIS, } ss:
Franklin County, }

To the honorable board of supervisors of Franklin county, Illinois:

The Belleville and Eldorado Railroad Company respectfully represent unto your honorable body that, in pursuance to the contract heretofore made with this honorable board, James Hill & Co., the contractors for the construction of said railroad from the east line of said county to Duquoin, in Perry county, Illinois, have completed said railroad to the main street leading south from the court-house in Benton, and within one-fourth of a mile of said court-house, and that trains of cars have been propelled over said road
451 by steam; that the time allowed by the order of your honorable body for the completion of said railroad expired on the 15th inst.; that no further extension of said road can be made without the friendly co-operation of your honorable body in extending the time to said company and contractors for the completion of said road. Said company feel warranted in stating that if a reasonable time be fixed upon by your honorable body that work will at once progress on said road; but owing to the fact that the winter season is rapidly approaching in which *in which* the work may be necessarily delayed in consequence of unfavorable weather, the said company feel constrained to ask for an extension of one year from this date. If, however, your honorable body should feel disinclined to act in the premises at this time so as to insure the success of the enterprise, your petitioners respectfully ask that you adjourn without action for such time as will enable each of your honorable body to consult his constituents on the subject of an extention of time.

F. M. YOUNGFLOOD,
Solicitor for Belleville & Eldorado Railroad Company.

452 The following resolution was presented by Isham Harrison and adopted by the board, to wit:

STATE OF ILLINOIS, } ss:
Franklin County, }

To the chairman and gentlemen of the board of supervisors of Franklin county, Illinois:

Whereas there are one hundred and fifty bonds, of the denomination of one thousand dollars each, issued in aid of the Belleville and

Eldorado Railroad Company for the construction of a railroad through the county of Franklin and State of Illinois at the special November term, A. D. 1876, with the express understanding that said road was to be completed through the said county to Duquoin in Perry county, Illinois, by 15th day of March, A. D. 1878; and whereas said railroad company failed upon their part to complete said railroad according to the contract above mentioned; and whereas the county board of said county did, at the March term, A. D. 1878, extend the time for the completion of said road to the said company until the 15th day of September, A. D. 1878; and whereas
453 the said railroad company again failed to complete said road according to the contract last above mentioned:

Therefore be it resolved by the county board of said Franklin county, at a special meeting held for county business on the 16th day of September, A. D. 1878, That we do hereby declare the said contract at an end, and that we do authorize and request the First National Bank of Evansville, Indiana, to transmit by express to Duquoin, Illinois, all the bonds and certificates of stock in said railroad that may be in possession of said bank to Chas. A. Akin, who is commissioner and agent on behalf of the people of said Franklin county; and the said Chas. A. Akin is hereby authorized to receipt for the same, and pay all reasonable charges and safely keep said bonds for the further action of the said county board.

And now comes F. M. Youngblood, solicitor for James Hill & Co., contractors of and for the building of the Belleville and Eldorado railroad, and enters his protest against the action of the board
454 of supervisors of Franklin county in withdrawing the bonds from the Evansville National Bank, and their removal to Benton, Illinois.

OCT. 21ST, 1878.

And now comes James K. Manion, and offered the following resolution, which was adopted by the board, to wit:

At a meeting of the board of supervisors of Franklin county, Illinois, held in Benton on Monday, July the 22nd, A. D. 1878, all the members present—J. M. Brayfield, chairman; Chas. A. Akin, clerk; James M. Akin, sheriff—among other proceedings, the following were had:

On motion of Isham Harrison, the following resolution was adopted by the board, to wit:

Whereas one hundred and fifty of the railroad bonds of Franklin county, as bonds of this county which were designed to be paid, upon certain conditions, to the Belleville and Eldorado Railroad Company for stock for the sum of one thousand dollars each, were de-
455 posited with the Evansville National Bank, of Evansville, Indiana, as trustee, by the supervisors of said county, under and by virtue of an order of said board of supervisors made at the November term (special meeting) thereof, A. D. 1877; and

Whereas there is doubt of the legality of placing said bonds out of the immediate custody and possession of this board:

Therefore it is ordered by said board of supervisors of said county, That Chas. A. Akin, county clerk of said county, be, and he is hereby, appointed agent and commissioner for and on behalf of said county, to proceed to Evansville, Indiana, at once, and for and on behalf of Franklin county demand and receive said bonds, and receipt for the same, and pay said bank all reasonable charges for keeping said bonds.

And that said Chas. A. Akin keep and retain the possession of the said bonds for and on behalf of this board of supervisors thereof.

And that said Chas. A. Akin report to this board at its next meeting of his acts and doings under this order.

456 Dated this 22nd day of July, A. D. 1878.

ISHAM HARRISON, *Mover.*

On motion the above order was adopted by the board.

And afterwards, to wit, on the 16th day of September, A. D. 1878, all the members being present—J. M. Brayfied, chairman; Chas. A. Akin, clerk; James M. Akin, sheriff—among other proceedings before the board the following were had, to wit:

STATE OF ILLINOIS, } ss:
Franklin County, }

To the chairman and gentlemen of the board of supervisors of Franklin county, Illinois:

Whereas there are one hundred and fifty bonds, of the denomination of one thousand dollars each, issued in aid of the Belleville & Eldorado Railroad Company for the construction of a railroad through the county of Franklin and State of Illinois, at the special November term, A. D. 1876, with the express understanding that said road was to be completed through the said county to
457 Duquoin, in Perry county, Illinois, by the 15th day of March, A. D. 1878; and

Whereas said railroad company failed upon their part to complete said road according to the contract above mentioned; and

Whereas the county board of said county did at the March term, A. D. 1878, extend the time for the completion of said road to the said company until the 15th day of September, A. D. 1878; and

Whereas the said railroad company again failed to complete said road according to the contract last above mentioned:

Therefore be it resolved by the county board of said Franklin county, at a special meeting held for county business on the 16th day of September, A. D. 1878, That we do hereby declare the said contract at an end, and that we do authorize and request the First National Bank of Evansville, Indiana, to transmit by express to Duquoin, Illinois, all the bonds and certificates of stock in said railroad that may be in the possession of said bank to Chas. A. Akin, who is commissioner and agent on behalf of the people of
458 said Franklin county, and the said Chas. A. Akin is hereby authorized to receipt for the same and pay all reasonable charges, and safely keep said bonds for the further action of the said county board.

By action of the board the above resolution was adopted.

Therefore, be it resolved by this board, That the above resolutions be, and the same *is*, hereby rescinded.

Dated this Oct. 21st, 1878.

J. K. MANION, *Mover.*

On motion of John W. Williams, the yeas and nays were demanded on the adoption of the above resolution, which resulted as follows:

Yeas—John J. St. Clair, James K. Manion, C. C. Biggs, Isham Harrison, Silas P. Kirkpatrick.

Noes—Jesse Taylor, Thomas Neal, John W. Williams.

The chairman, James M. Brayfield, entered his protest against the adoption of the above resolution.

And now, on motion of John J. St. Clair, the following resolution was adopted by the board, to wit:

459 Whereas, at a special meeting of the board of supervisors of Franklin county, held at the court-house in Benton, in said county, on the 13th day of December, A. D. 1876, a contract was made between the said board of supervisors of said county and the Belleville and Eldorado Railroad Company and James Hill and William Nye, under the firm name of James Hill & Co., as contractors under said company, for the construction of said Belleville and Eldorado railroad from the east line of said Franklin county to Duquoin, in Perry county, in which contract the said board of supervisors agreed to deliver to said railroad company and said James Hill and Company one hundred & fifty bonds of said Franklin county at the denomination of one thousand dollars each, and to receive for said bonds the capital stock of said railroad company to the amount of one hundred and fifty thousand dollars; and

Whereas, under said contract, said bonds and stock were issued and placed in the hands of the Evansville National Bank of
460 Evansville, Indiana, as trustee for the county of Franklin, the said railroad company, and the said James Hill & Co.; and

Whereas said bonds and stocks were issued and placed in the hands of said trustee; and

Whereas by said contract the said bonds of Franklin county were to be delivered to said railroad company *pro rata* for mile of said railroad as each mile of said railroad should be completed under the contract, and when the county judge of Franklin county should certify to said trustee that said railroad had been completed, as provided in said contract, and said stock to be delivered to said county by said trustee; and

Whereas under said contract the said railroad company and James Hill & Co. have completed said road from the east line of said county to Benton, and cars have been propelled by steam thereon, and seventy-five of the said bonds of said county have been delivered to the company and James Hill & Co., and seventy-five thousand dollars' worth of the capital stock of said railroad company has been deposited with the trustee for said Franklin county; and

461 Whereas the time for the completion of said railroad to Duquoin under said contract expired on the 15th day of September, A. D. 1878; and

Whereas we regard it as advantageous to the people of said county to have said railroad completed through to Duquoin, so as to give our shippers competition in railroad transportation; and

Whereas said railroad cannot be extended to Duquoin, in the judgment of the board, without the time be extended to said company and contractors, and said bonds be delivered to said company, as provided in said contract:

Therefore be it resolved by the board of supervisors of Franklin county, Illinois, in special meeting assembled, That the time for the completion of the said Belleville and Eldorado railroad from Benton to Duquoin be extended to said company and contractors until the first day of November, A. D. 1879.

And be it further ordered by said board of supervisors, That said Evansville Na-ional Bank, as trustee aforesaid, be, and it is hereby, ordered to pay out to said railroad company the bonds of said
462 county now in its hands as soon as the railroad is completed to Duquoin, as provided in said original contract.

JOHN J. ST. CLAIR, *Mover.*

On motion of John W. Williams the yeas and nays were demanded on the above resolution, which resulted as follows:

Yeas—John J. St. Clair, James K. Manion, C. C. Biggs, Isham Harrison, Silas P. Kirkpatrick.

Nays—Jesse Taylor, Thomas Neal, John W. Williams.

The chairman, James M. Brayfield, entered his protest against the adoption of the above resolution.

Board met pursuant to adjournment at nine o'clock a. m., Tuesday, April 22nd, A. D. 1879.

Roll-call: All the members present.

On motion of Washington Vaughn, Hon. F. M. Youngblood, attorney for the Belleville and Eldorado railroad, is requested to read the contract or agreement made and entered into between James Hill & Company, contractors of said railroad company, and W. Bayard Cutting, of New York.

463 Contract read in the presence of the board.

And now comes James Martin, of Goode township, and offers the following resolution, which is adopted by the board, to wit:

To the chairman and board of supervisors of Franklin county, Illinois:

Whereas a majority of this board have recently come into office, and are not fully advised concerning the legal effect of the acts and proceedings of our predecessors in office relative to and concerning the Belleville & Eldorado Railroad Company and the bonds of this county, known as our railroad bonds; and

Whereas we can see no advantage to be gained by the hasty

and premature action on our parts in the premises, but desire to proceed deliberately and advisedly as the representatives of the taxpayers of Franklin county, Illinois: Therefore,

Resolved, That the president and cashier of the Evansville National Bank of Evansville, Indiana, the present custodians of at least a portion of our said county railroad bonds, be, and they are hereby, instructed not to pay out or deliver over any of our said railroad bonds to the officers or representatives of said Belle-
464 ville & Eldorado Railroad Company, or to any other person or persons whomsoever, until further instructed so to do by this board.

Resolved, That the said president and said cashier above named be, and they are hereby, requested to report immedately to the chairman of this board the numbers, amounts, and dates of all our said railroad bonds now in their custody or possession, together with any other facts within their knowledge connected with said bonds deemed proper by them to report.

Resolved, That the clerk of this Franklin county, Illinois, be instructed to transmit without delay a certified copy of these resolutions, together with the action of this board concerning same, to the said president and said cashier of said Evansville National Bank of Evansville, Indiana.

JAMES MARTIN.

On motion of Samuel F. Buntin, the following resolution was read by the clerk of this board, to wit:

Resolved by the board of supervisors of Franklin county,
465 Illinois, at the special term of said body held at Benton April 21st & 22nd, 1879, That we do hereby endorse and sustain the action of the board of supervisors of our county in the year 1878 in contracting for the construction of the B. & E. R. R. with James Hill & Co., and for the extension of time granted to said Co. to complete their contract, and that we believe any action tending to vitiate said contract or impair the credit of the bonds issued under said contract should be discouraged by us until after the 1st of November, 1879.

S. F. BUNTIN.

The above resolution was rejected by the board.

APRIL 30, 1879.

On motion of John W. Williams, the following resolution was read and adopted by the board, to wit:

Resolved by the board of supervisors of Franklin county, Illinois, That the county of Franklin, State of Illinois, do employ Andrew D. Duff, of Carbondale, Illinois, as attorney for said county to bring suit in the name of said county to prevent the further de-
466 livery of any bonds of said county to the Belleville & Eldorado Railroad Company, or to any person or persons for them, and to test the legality of said bonds in some court having jurisdiction of the same.

JOHN W. WILLIAMS, *Mover.*

At the request of John J. St. Clair, a member of the board, the yeas and nays were demanded upon the adoption of the above resolution, which resulted as follows, to wit:

Yeas—James Martin, Washington Vaughn, John M. Darr, Jesse Taylor John W. Williams.

Nays—Joseph Hammons, John J. St. Clair, Samuel F. Buntin.

On motion of John W. Williams, the chair appointed John M. Darr, James Martin, and Jesse Taylor a committee of three to confer with Andrew D. Duff upon the subject of a suit at law with the Belleville & Eldorado Railroad Company.

And now comes the committee appointed to confer with A. D. Duff and makes the following report, to wit:

STATE OF ILLINOIS, } ss:
Franklin County, }

467 To the chairman and board of supervisors of Franklin county:

We, your committee appointed to confer with Andrew D. Duff in regard to bringing suit to test the legality of said Franklin county railroad bonds, and to prevent the further delivery of the same, beg leave to report the following, to wit: We have conferred with said A. D. Duff, and have agreed with him as per contract entered into between said Duff and a majority of the members of this board as follows, to wit:

All of which is respectfully submitted.

J. M. DARR.
JESSE TAYLOR.
JAMES MARTIN.

Contract.

Contract between Andrew D. Duff, of the one part, and the County of Franklin, of the other part, as follows, viz.:

Said Duff, as attorney for said county, agrees to commence and prosecute to as speedy a termination as the law and the rules and practice of the courts will permit the proper suit or proceedings to protect and secure said county against the issue and delivery of any more of the seventy-five thousand dollars of the bonds of said county now in
468 the possession of a certain bank in Evansville, Ind., as trustee to the Belleville and Eldorado Railroad Co., purporting to be in payment of a supposed subscription of said county to the capital stock of said railrond company under a vote of the people of said county in 1869, said suit or proceedings to be commenced at once. And the said county agrees to pay said Duff a retainer of three hundred dollars when this contract is signed and filed for record, and when there shall be a final judgment or decree by the proper court that said bonds, so in the hands of said bank as trustee, be returned to the proper authorities of said county or declared void, and that said county is not lawfully bound and has no lawful power and authority to deliver said bonds to said railroad company, or to issue and deliver any other bonds of said county to said railway company instead of those now in the hands of said trustee; then said

county agrees to pay said Duff one thousand and seven hundred dollars more for his said legal services; but if upon a final hearing of said suit or proceedings it shall be adjudged by the
469 court that said county is and can be compelled to issue and deliver the said sum of $75,000 of bonds not yet delivered to said company, then and in that case said county is not to pay said Duff any other fee or sum than the said three hundred dollars retainer named at the time this contract is signed and filed for record.

It is also further agreed between said parties that said county is not to withdraw, dismiss, or discontinue any suit or proceeding commenced by said Duff in its name for the above purposes without his consent; and, if said county should do so, then the said sum of seventeen hundred dollars over & above said retainer shall at once become due and payable to said Duff by said county.

And lastly, this contract shall be signed first by said Duff, & then by the board of supervisors of said county, or a majority of them, and then spread upon the records of said board by the county clerk as the contract of the parties hereto upon the subject-matter herein mentioned and set forth.

470 In witness whereof we have hereunto set our hands and seals this 30th day of April, A. D. 1879.

ANDREW D. DUFF, [SEAL.]
Attorney.
JESSE TAYLOR, [SEAL.]
Supervisor F. C.
J. W. WILLIAMS, [SEAL.]
Supervisor F. C.
JAMES MARTIN, [SEAL.]
Supervisor F. C.
WASHINGTON VAUGHN, [SEAL.]
Supervisor F. C.
JOHN M. DARR, [SEAL.]
Supervisor F. C.

And now comes John M. Darr, of Ewing township, and offers the following resolution, which was adopted by the board, to wit:

Resolved by the board, That the contract this day signed by Andrew D. Duff, for himself, & by a majority of this board, for & on behalf of Franklin county, in regard to certain bonds of said county about to be issued to the Belleville & Eldorado Co., be, and the same is hereby, ratified by this board for and on behalf of said county as the contract thereof; and it is hereby ordered that said contract be filed and spread of record by the clerk upon the proper records of this board; and that said —, as the attorney of said county, is hereby authorized and requested to proceed at once, by the institution
471 of the proper suit or proceedings in the name of this county, to carry out his undertaking & agreement in said contract contained.

JOHN M. DARR, *Mover.*

By request of John J. St. Clair, a member of this board, the yeas

and nays on the adoption of the above resolution was ordered, which showed the following vote:

Yeas—James Martin, Washington Vaughn, John M. Darr, John W. Williams, Jesse Taylor.

Nays—Joseph Hammons, John J. St. Clair, Samuel F. Buntin.

MAY 10, 1879.

And now comes John J. St. Clair, member of this board, and offers the following resolution, which was rejected by the board, to wit:

Special Term, Supervisors' Court, Franklin Co., Illinois, May 10th, 1879.

Whereas there is a difference of opinion among the members of the board as to the wishes of a majority of the voters of the county on the railroad question:

Therefore resolved, That petitions be circulated throughout the county to read as follows, to wit:

472 We, the undersigned, legal voters of Franklin county and State of Illinois, hereby petition our board of supervisors to take such action as will cause the dismissal of the suit of our county, by A. D. Duff as attorney, against the Belleville & Eldorado railroad and Bank of Evansville, as trustee, and prevent our county from paying any further costs or attorney fees than those already paid in said cause, and such action as will carry out the contract of our county with the B. & E. R. R. in good faith, and by all honorable and legal means encourage the completion of said road at the earliest possible period of time.

Resolved, That the board meet again on May 19th, 1879, at 10 o'clock a. m., and if at that time a majority of the legal voters of the county have signed the foregoing petition, the board will take such action as to carry out the wishes of the petitioners.

J. J. ST. CLAIR, *Mover.*

June 4, 1879.

And now comes Samuel F. Buntin, a member of this board, who offers the following resolution, which is adopted and ordered of record, as follows:

473 Resolved by the board of supervisors of Franklin county, That the suit now pending in the circuit court of Franklin county, in which the county of Franklin is complainant and the Belleville and Eldorado Railroad Company and others are defendants, it being a bill in chancery to enjoin the delivery of the bonds of said county now in the hands of the Evansville National Bank, as trustee, to the Belleville and Eldorado Railroad Company, under its contract with said county as said railroad shall be completed to Duquoin, be dismissed and discontinued, and that said bonds be delivered in strict compliance with the original contract made with the said county and the said railroad company and the contractors.

And be it further resolved by the board of supervisors, That John J. St. Clair hereafter, as said railroad progresses from Benton to

Duquoin, examine and receive said road under said contract, as therein provided for the county judge of said county to do, and to give orders to the trustee for said bonds, and that the trustee hereafter deliver said bonds on the order of the said John J.
474 St. Clair, showing that said railroad has been completed as provided in said contract.

And be it further resolved, That on the delivery of said bonds, or any part thereof, on the order of the said John J. St. Clair, the chairman of this board, — is hereby directed to attach his certificate of registration to each of said bonds.

And be it further resolved, That all resolutions of this board heretofore passed on this subject inconsistent herewith be, and the same are hereby, repealed and revoked.

And it is further resolved That F. M. Youngblood be, and he is hereby, authorized and empowered to take such legal steps as may be necessary te have said suit above mentioned dismissed and discontinued.

S. F. BUNTIN, *Mover.*

By request the yeas and nays are called for on the adoption of the above resolution, which showed the following vote:

Yeas—John J. St. Clair, Joseph Hammons, S. F. Buntin, John G. Bowling.

Noes—Jesse Taylor, J. W. Williams, J. M. Darr, James Martin.

There being a tie vote the chairman voted in the affirmative.

475 Articles of agreement made and entered into between the County of Franklin, in the State of Illinois, party of the first part, & the Belleville and Eldorado Company, party of the second part, and James Hill & Co., contractors for the construction of the Belleville & Eldorado railroad, parties of the third part, witnesseth; That whereas the said county of Franklin has heretofore issued and placed in the hands of the Evansville National Bank of Evansville, Indiana, as trustee, one hundred and fifty bonds of said county, of the denomination of one thousand dollars each, which bonds were placed in the hands of said bank as trustee, in pursuance of a contract with said County of Franklin and said Belleville and Eldorado Railroad Company and the said James Hill & Co. for the construction and completion of the Belleville and Eldorado railroad from the east line of Franklin county to Duquoin, in Perry county, and under said contract the said trustee was directed to pay out said bonds to the said railroad company in *pro rata* installments,
476 as each mile of said road should be completed in pursuance of said contract from the said east line of said Franklin county westward to Duquoin; and whereas said railroad has been completed under said contract to a point two miles west of Benton, in said county, and eighty-three of said bonds have been delivered to said railroad company and said James Hill & Co. under said contract, leaving sixty-seven of said bonds yet in the hands of said trustee; and whereas the County of Franklin, party of the first part, did, in the month of May last, retain Andrew D. Duff, counsellor-at-law, to institute suit in the Franklin circuit court to enjoin

the delivery of said bonds then in the hands of the said trustee, and agree to pay said Duff a fee of two thousand dollars, and have paid to said Duff three hundred dollars on said fee; and whereas the said County of Franklin has, by its board of supervisors, abandoned and discontinued said injunction suit, whereby the fee of said Duff has become due and payable; and whereas the said Andrew D. Duff has proposed, in the spirit
477 of compromise, to said county to accept in full satisfaction of his fee in said suit one thousand dollars in addition to the three hundred dollars already paid him; and whereas the said Belleville and Eldorado Railroad Company, through its contractors, the said James Hill & Co., has made ample arrangements for the certain completion of said railroad through to Duquoin in strict compliance with the said contract aforesaid; and whereas all the materials necessary for the completion of said railroad have been bought and paid for, and enough thereof is now on the line of said road to complete the same eight miles west from Benton, and the remainder of said materials ready to be placed along the line of said road as fast as the work progresses, so as to make room therefor; and whereas the said Belleville and Eldorado — Company and James Hill & Co. have pledged to secure the completion of said road to Duquoin four hundred and fifty-five thousand dollars, par value, of the first-mortgage bonds of said company, together with about seven thousand
478 shares of the capital stock of said company, to W. Bayard Cutting, of the city of New York, who is furnishing the necessary means, in addition to the proceeds of the Franklin county bonds, necessary for the construction of said railroad to Duquoin; and whereas grave questions as to the liabilities of the said county of Franklin for damages to the said railroad company and the said James Hill & Co. have grown out of the action of said county with reference to the attempted litigation of said bonds, and as to the individual liability of the members of the board of supervisors; and whereas it is desirable on the part of parties hereto to amicably adjust and settle all differences growing out of the action of said county relative to said bonds on terms of equity and justice to all parties concerned:

Therefore these presents witnesseth that, in consideration of the premises and mutual covenants, promises, agreements, and undertakings of the parties hereinafter set forth, the said parties hereto mutually covenant, promise, undertake, and agree to and
479 with each other as follows, to wit: That the Belleville and Eldorado Railroad Company and the said James Hill & Co. hereby covenant, promise, undertake, and agree to and with the said county of Franklin that they will refund to said county the three hundred dollars paid to said Andrew D. Duff, as his fee as aforesaid; and that they will pay to said Duff the one thousand dollars agreed to be accepted by him in satisfaction of said fee in the following manner: That they will deliver to the clerk of this board for cancellation one of the bonds of said county of the denomination of one thousand dollars when the same shall be received by them under this contract; and that they will pay all the expenses of the said

trustee growing out of the trust created by said original contract. And they do further covenant and agree to and with the said county of Franklin, and with each member of said board of supervisors, that they will waive, and hereby do waive, and release all claims for damages which they claim to have against said county, or
480 against any of the members of said board of supervisors, growing out of any action of said board relative to the delivery of said bonds; and hereby waive and release all right of action, either against the said county or against any of the individual members of said board, growing out of said matter; and the county of Franklin hereby promises, covenants, undertakes, and agrees, to and with the said Belleville and Eldorado Railroad Company and the said James Hill & Co., that the said Evansville National Bank, trustee as aforesaid, shall, and said trustee is hereby, directed to deliver to the said railroad company and the said James Hill & Co. and John J. St. Clair, a member of the board of supervisors of said county, on the presentation of this contract, all of the bonds of said county remaining in the hands of said trustee under said original contract, taking their receipt for the same; and that said trustee, on the delivery of said bonds under this contract, shall be discharged from all responsibility as such trustee. And the said Belleville and Eldorado Railroad Company and James Hill & Co. further cove-
481 nant, promise and agree, to and with the said county of Franklin, that when said bonds shall be so received by said railroad company, the said James Hill & Co., and the said John J. St. Clair under this contract said bonds shall remain in the hands of the said John J. St. Clair, and shall by him be paid to the said railroad company and the said James Hill & Co. *pro rata* per mile as each mile of said road shall be completed from Benton to Duquoin and received by the said John J. St. Clair as heretofore provided for by the said board of supervisors of said Franklin county.

In witness whereof the said county of Franklin has executed this contract by the chairman of the board of supervisors and the clerk of said board, under the seal of said board, and the said Belleville and Eldorado Railroad Company, by its president and secretary, under the seal of said company, and the said James Hill & Co., by their private signature and seal.

Dated this July 16th, A. D. 1879.

SAMUEL HAMILTON, [SEAL.]
Chairman of the Board of Supervisors of Franklin County, Illinois.
CHAS. A. AKIN, [SEAL.]
Clerk of said Board.
482 WM. R. WARD. [SEAL.]
President Belleville & Eldorado R. R. Co.
G. B. HOBLITT, [SEAL.]
Secretary Belleville & Eldorado R. R. Co.
JAMES HILL & CO. [SEAL.]

And now comes Samuel F. Buntin, and offers the following resolution, which is adopted by the board and ordered of record, as follows:

Resolved by the board of supervisors of Franklin county, That the

foregoing contract between the county of Franklin, the Belleville and Eldorado Railroad Company, and James Hill & Co. be accepted on the part of said county, and that the chairman of the board, and the clerk thereof sign the same on the part of said county under the seal thereof.

S. F. BUNTIN, *Mover.*

And now comes John J. St. Clair, and offers the following resolution, which is adopted by the board and ordered of record, in the following words, to wit:

Resolved by board of supervisors of Franklin county, Illinois, That the proposition of Andrew D. Duff to accept one thousand dollars in settlement in full of his claim of $1,700 as attorney
483 fee, which has become due by the terms of a contract heretofore made and entered into between the board of supervisors of said Franklin county, Ills., and said Andrew D. Duff be accepted, and that the county clerk of this be, and he is hereby, ordered to issue a county order for the sum of one thousand dollars, payable to said Andrew D. Duff.

J. J. ST. CLAIR, *Mover.*

On motion of Jesse Taylor, the board adjourned, to meet on Monday, September the 8th, A. D. 1879, at the hour of 10 o'clock a. m.

S. HAMILTON, *Chairman.*

Attest: CHAS. A. AKIN, *Co. Clerk.*

SEPTEMBER 8TH, 1879.

The following resolution was introduced by John J. St. Clair, member of the board of supervisors from Benton township, and adopted by the board as follows, to wit:

Resolved by the board of supervisors of Franklin county, Illinois, That the clerk of this court be, and he is hereby, authorized to procure the stock bond certificates of Franklin Co., Ill's, to the amount of one hundred and fifty thousand dollars from the Evansville Nat. Bank, and receipt for the same.

JOHN J. ST. CLAIR, *Mover.*

484 NOV. 5TH, 1879.

On motion of John W. Williams, the board ordered John J. St. Clair to secure the payment, by James Hill and Company, [of] the sum of three hundred dollars to the treasurer of Franklin county, Illinois, in pursuance of a former order and contract on record.

On motion of John J. St. Clair, the board ordered the clerk of this board to deliver to the treasurer of Franklin county, Illinois, all the certificates of stock in the Belleville and Eldorado Railroad Company, and take his receipt for them.

And now comes John J. St. Clair, who had been appointed by this board at a former term agent on the part of the county to receive and hold on deposit the residue of railroad bonds then in

the possession of the Evansville National Bank, of Evansville, Indiana, subject to the order of James Hill and Company, contractors for the construction of the Belleville and Eldorado railroad, to be paid out to them on the build-
485 ing of said road as per contract, and makes oral report of his doings as such agent, and files receipts from said James Hill and Company for all the railroad bonds which came into the possession of him, the said John J. St. Clair, except bond No. fifty (50) of the new series, which said bond is by the said St. Clair filed for cancellation in pursuance of a former contract made and entered into by and between the board of supervisors of Franklin county, Illinois, and the said James Hill and Company.

Also the said John J. St. Clair presented to the board all the unearned coupons clipped from the bonds at the time they were delivered to the said James Hill and Company.

And, on motion of John W. Williams, the board discharged said John J. St. Clair from further duties as such agent.

486 STATE OF ILLINOIS, }
Franklin County, } *ss:*

I, Chas. A. Akin, clerk of the county court within and for the aforesaid county and State, do hereby certify that the above and foregoing is a true, correct, and complete copy of the records of the county court of said county as appears of record in said office.

In testimony whereof I have hereunto set my hand and affixed the seal of said court this the 5th day of June, A. D. 1882.

[L. S.] CHAS. A. AKIN,
County Clerk of Franklin County, Illinois.

(Indorsed:) Filed June 15, 1882. J. A. Jones, clerk.

Opened at request of T. J. Layman, Esq., June 15, '82.
J. A. JONES, *Clerk.*

Fees for taking depositions ------ $5 00
Express charges ---------- 50

JOHN MULKEY,
Master in Chancery.

End of Exhibit "A" to deposition of Charles A. Akin.

487 And afterwards, to wit, on Tuesday, the third day of July, at the June term, in the year of our Lord one thousand eight hundred and eighty-three, the following proceedings were had in said court in said cause and entered of record, to wit.

Final Decree.

COUNTY OF FRANKLIN *v.* BELLEVILLE AND ELDORADO RAILROAD COMPANY, George P. Dally, John Graham, German Savings Bank of Davenport, Iowa; Anthony Reiz, George W. Steele, Sarah E. Bruyn, People's Savings Bank of Evansville, Park Banking Company of Rockville, Indiana; Solomon Rothschild, Benjamin Rothschild, and Thomas E. Garvin.	In Chancery.

This cause having been submitted to the court at the June term' A. D. 1882, on the bill, answers, replications, and cross-bills, answers and replications thereto, and proofs, and upon the printed briefs and arguments of complainants and defendants, and the court
488 having had the same under advisement, and being now fully advised concerning the premises and of all the matters and things so submitted and involved, doth decree, find, and order as follows: As to bond No. eleven (11), held by George P. Dally, and bonds Nos. twelve (12) and thirteen (13), held by Janie Miller, and bond No. nineteen (19), held by John Graham, and bonds Nos. fifteen (15), eighteen (18), thirty-nine (39), forty (40), forty-one (41), forty-two (42), forty-three (43), forty-five (45), and forty-six (46), held by the German Savings Bank of Davenport, Iowa, for one thousand dollars each, and of the series of bonds in complainant's bill described, and purporting on their face to have been issued under the provisions of the railroad act of November 6th, 1849, the court doth find that said bonds and the coupons thereto attached were issued without authority of law, and are therefore void, and doth order and decree as to such holders of said bonds the injunction heretofore issued herein be made perpetual, without prejudice, however, to the rights of holders of any of said series of bonds, purporting on their face to have been issued under the said act
489 of 1849, who are not parties to this suit, complainant's bill as to any of the holders of said series of bonds not parties as aforesaid, being hereby dismissed without prejudice; and as to bond No. eighty (80), belonging to Anthony Reiz; bond No. ninety-eight (98), belonging to George W. Steele; bond Nos. ninety-six (96) and ninety-seven (97), belonging to Sarah E. Bruyn; bonds Nos. sixteen (16) and sixty-seven (67), belonging to the People's Savings Bank of Evansville; bonds Nos. eighty-three (83) and eighty-five (85), belonging to the Park Banking Company of Rockville, Indiana; bond Nos. nine (9), thirteen (13), eighteen (18), twenty (20), twenty-one (21), forty-nine (49), fifty (50), fifty-one (51), fifty-two, and fifty-three (53), belonging to Solomon Rothchild and Benjamin Rothchild, parties doing business under the name of Rothchild & Bro.; bond No. five (5), belonging to Thomas E. Garvin; and bonds Nos. eleven (11), twelve (12), fourteen (14), thirty (30), thirty-three (33), thirty-four (34), thirty-five (35), thirty-nine (39), forty-seven (47), fifty-six (56), fifty-seven (57), fifty-eight (58), fifty-nine (59), sixty (60), sixty-two (62), sixty-three (63), sixty-six (66), and seventy-seven (77), be-

longing to the German Savings Bank of Davenport, Iowa,
490 purporting on their face to be of the series issued under the charter of said Belleville and Eldorado Railroad Company, approved February 22nd, A. D. 1861, the court doth decree in favor of said defendants, the said several respective holders thereof, and that the said several bonds and the coupons thereof are valid and legal obligations as against the county of Franklin; and as to said last-mentioned series of said bonds and coupons thereto attached, as held as aforesaid, the court doth decree that the injunction issued in this cause be dissolved and complainant's said bill be dismissed for want of equity. And it is further ordered, adjudged, and decreed that the said defendants have and recover against the said county of Franklin their costs herein, to be taxed, and have process to collect the same.

No docket fee to be taxed.

And afterwards, to wit, on Saturday, the 17th day of January, at the January term, in the year of our Lord one thousand eight hundred and eighty-five, came John Peterson and Henry H. Miller, by J. S. Stevens, Esq., their solicitor, and filed in the office of the
491 clerk of said court their petition to redocket said cause and for a dissolution of the injunction; which said petition is in the words and figures following, to wit:

Petition of John Peterson and Henry H. Miller to Redocket Case and for Dissolution of Injunction.

In the Circuit Court of the United States, Southern District of Illinois. In Chancery.

FRANKLIN COUNTY
vs.
THE BELLEVILLE AND ELDORADO RAILROAD CO. *et al.*

Intervening petition of John Peterson and Henry H. Miller—for injunction and relief.

Your petitioners, John Peterson and Henry H. Miller, residents and citizens of the State of Illinois, respectfully represents unto your honor that they each own one bond for one thousand dollars, bearing interest at eight per cent. per annum, payable semi-annually, and issued by Franklin county, in the State of Illinois, to the Belleville and Eldorado Railroad Company. Said bonds were issued under an act of the Legislature of the State of Illinois, approved Feb'y 22d, 1861, and are respectively numbered 64 & 76, and are due at any time after five years and within twenty years from their date, viz., Nov. 13, 1877.

492 Your petitioners further show that said Franklin County filed a bill to contest the validity of said bonds and others, and procured a temporary injunction in this suit against the collection of the interest upon the bonds aforesaid; that afterwards, upon a hearing of said cause, all the bonds issued under the act aforesaid by said county, including the two bonds before named, were held

valid, and said injunction was dissolved as to such of said bonds as were at that time represented.

Your petitioner shows that at the date of said order they were the owners of said bonds respectively, but they had no notice of such proceeding; that no interest has been paid upon either of said bonds since July, 1880, the interest having been paid upon both said bonds by said county to said last-named date.

They further show that they are the owners of the interest coupons upon said bonds maturing since July, 1880, and that they have been prevented and now are prevented from collecting the amount of such coupons by reason of the injunction aforesaid.

Your petitioners submit to your honor that as said bonds
493 have been decreed to be valid and legal, the injunction aforesaid should be dissolved, and your petitioners allowed to pursue such remedy as the law affords for the collection of their interest.

Your petitioners further show that they have caused to be served upon the chairman of the board of supervisors of Franklin county a notice of their intention to apply for a dissolution of said injunction. Your petitioners therefore pray that the above-entitled cause may be redocketed, and that an order may be made dissolving said injunction, so far as it applies to said bonds No-. 64 & 76, and for their costs in this behalf expended.

JOHN PETERSON.
HENRY H. MILLER.

J. S. STEVENS, *So'c't'r*s.

STATE OF ILLINOIS, } *ss:*
Sangamon County, }

J. S. Stevens, being duly sworn, upon oath says: That he is solicitor for the above-named parties, and that the matters and things in the foregoing petition set forth are true to the best of affiant's information and belief.

J. S. STEVENS.

Subscribed & sworn to before me January 16, 1885.

J. A. JONES, *Clerk.*

494 STATE OF ILLINOIS, } *ss:*
Sangamon County, }

J. S. Stevens, being duly sworn, upon his oath says: As solicitor for the petitioners named in the foregoing petition, he sent to the sheriff of Franklin county a notice of his intention to move the court to redocket the case of Franklin County *v.* The Belleville and Eldorado Railroad Co. *et al.*, in the circuit court of the United States for the southern district of Illinois, and for a dissolution of the injunction heretofore ordered in said cause, so far as it affects the petitioners, and a duplicate copy of such notice to be delivered by said sheriff to the chairman of the board of supervisors of said Franklin county. Affiant further says that, not receiving said original notice, he telegraphed to said sheriff, and yesterday morning received a reply that said notice had been served, as requested, and mailed to affiant's

address; that the same should have reached affiant in due course of mail, but such notice and proof of service has not yet been received, but, as affiant is informed, it was duly served, and said county is represented by counsel at the present time.

J. S. STEVENS.

Subscribed & sworn to before me January 16, 1885.

J. A. JONES, *Clerk.*

495 (Indorsed:) Filed January 17th, 1885. J. A. Jones, clerk.

And afterwards, to wit, on the same day, in the term and year last aforesaid, the following proceedings were had in said court in said cause and entered of record, to wit:

Order Dissolving Injunction as to Bonds of John Peterson and Henry H. Miller.

COUNTY OF FRANKLIN
v.
THE BELLEVILLE & ELDORADO RAILROAD COMPANY *et al.* } In Chancery.

This day this cause coming up on application of John Peterson and Henry H. Miller to have the above-entitled cause redocketed, and for an order dissolving the injunction heretofore granted, so far as it affects bonds No-. 64 & 76, purporting to have been issued by said county of Franklin to the Belleville and Eldorado Railroad Company under the charter of said company, approved February 22d, A. D. 1861, and held by said petitioners, respectively, and the court now being advised in the premises doth hereby order, adjudge, and decree that said injunction, as to said bonds numbered
496 64 & 76, of the series aforesaid, be, and the same is hereby, dissolved.

And afterwards, to wit, on the 14th day of April, in the year last aforesaid, came E. P. Skinner and Thomas H. Edsall, by Messrs. Sanders and Haynes, their solicitors, and filed in the office of the clerk of said court their petition to dissolve the injunction heretofore entered in said cause as to certain bonds held by them, which said petition is in the words and figures following, to wit:

Petition of E. P. Skinner and Thomas Henry Edsall to Dissolve Injunction.

In the Circuit Court of the United States, Southern District of Illinois. —— Term, A. D. 1885. In Equity.

THE COUNTY OF FRANKLIN
vs.
THE BELLEVILLE and ELDORADO RAILROAD COMPANY *et al.*

To the Honorable Samuel H. Treat, judge of said court:

Your petitioners, Elizabeth P. Skinner and Thomas Henry Edsall, residents and citizens of the State of New York, respectfully

represent unto your honor that they are the owners, the
497 former of fifteen certain bonds, numbered, respectively, 4, 10, 15, 23, 24, 27, 28, 42, 70, 72, 79, 87, 90, 93, and 94; the latter of bond number 71, each of said bonds being for the sum of one thousand dollars, bearing interest at eight per cent. per annum, payable semi-annually, issued by said county of Franklin, State of Illinois, to the Belleville and Eldorado Railroad Company under an act of the Legislature of the State of Illinois approved February 22d, 1861, and are of the same issue and series with those certain bonds of the said county which were covered by the decree entered in this cause on the 3rd day of July, 1883, and therein declared to be in all respects legal and valid. Reference is made to said decree, and is prayed to be taken as part hereof.

Your petitioners further represent that no interest has been paid upon any of said bonds since July, 1880, the interest having been paid upon all of said bonds by said county to said last-named date; that they were the owners of said bond- and coupons at the time they were enjoined; that in said suit above set forth they are described as unknown holders, and that they have never been
498 summoned or served with process, and that this court has no jurisdiction over their persons, nor have they ever had a copy of the complaint herein.

Your petitioners therefore pray that said injunction in said suit as above set forth may be dissolved as to said bonds numbered 4, 10, 15, 23, 24, 27, 28, 42, 70, 71, 72, 79, 87, 90, 93, and 94; that the cause by redocketed; that reasonable damages for solicitor's fees, &c., be allowed, and such further relief granted as to your honor may seem meet.

SANDERS & HAYNES, *Solicitors.*

STATE OF ILLINOIS, }
Sangamon County, } *ss:*

Geo. A. Sanders, being duly sworn, upon oath says: That he is solicitor for the above-named parties, and that the matters and things in the foregoing petition set forth are true to the best of affiant's information and belief.

GEO. A. SANDERS.

Subscribed & sworn to before me April 14, 1885.

[L. S.] WM. R. BOWERS, *N. P.*

(Indorsed:) Filed April 14, 1885. J. A. Jones, clerk.

499 And thereupon, on the same day, to wit, on Tuesday, the 14th day of April, in the term and year last aforesaid, the following proceedings were had in said court in said cause and entered of record, to wit:

Order Dissolving Injunction as to Elizabeth P. Skinner & Thomas Henry Edsall.

COUNTY OF FRANKLIN
v.
BELLEVILLE & ELDORADO RAILROAD COMPANY *et al.* } In Chancery.

This day this cause came on to be heard on petition of Elizabeth P. Skinner and Thomas Henry Edsall to have the above-entitled cause redocketed, and for an order dissolving the injunction heretofore granted, so far as it affects bonds Nos. 4, 10, 15, 23, 24, 27, 28, 42, 70, 71, 72, 79, 87, 90, 93, and 94, issued under an act of the Legislature of the State of Illinois, approved Feb. 21, 1861, each of said bonds being for the sum of one thousand dollars, bearing interest at eight per cent. per annum, payable semi-annually, issued by said county of Franklin, State of Illinois, to the Belleville and Eldorado Railroad Company, and the court being advised in the prem-
500 ises doth decree that said injunction be dissolved as to each of the above-mentioned bonds, to wit, Nos. 4, 10, 15, 23, 24, 27, 28, 42, 70, 71, 72, 79, 87, 90, 93, & 94, of the issue aforesaid.

And afterwards, to wit, on Friday, the 12th day of June, at the June term, in the year last aforesaid, came the German Savings Bank of Davenport, Iowa, one of the defendants in said cause, by E. E. Cook, Esq., its solicitor, and filed its petition for an appeal to the Supreme Court of the United States, and for a transcript of the record, which said petition is in the words and figures following, to wit:

Petition of the German Savings Bank of Davenport, Iowa, for Appeal and for a Transcript of Record.

In the Circuit Court of the United States, Southern District of Illinois.

THE COUNTY OF FRANKLIN (in the State of Illinois)
vs.
THE BELLEVILLE & ELDORADO RAILROAD COMPANY, THE GERMAN SAVINGS BANK OF DAVENPORT, IOWA, *et al.*

The above-named defendant, the German Savings Bank of Davenport, Iowa, a corporation organized and existing under the
501 laws of Iowa, conceiving itself to be aggrieved by the final decree entered as of the date of July 3d, 1883, in the above-entitled cause, doth hereby appeal therefrom to the Supreme Court of the United States, and it prays that this its appeal may be allowed, and that a transcript of the record, proceedings, and evidence in the cause, duly authenticated, may be sent to the Supreme Court.

E. E. COOK,
Solicitor for said Defendant,
The German Savings Bank of Davenport, Iowa.

(Indorsed:) Filed June 12, 1885. J. A. Jones, clerk.

And thereupon, on the same day, in the term and year last aforesaid, the following proceedings were had in said court in said cause and entered of record, to wit:

Order Granting Appeal.

COUNTY OF FRANKLIN
v.
THE BELLEVILLE AND ELDORADO RAILROAD COMPANY *et al.* } In Chancery.

This day comes the German Savings Bank of Davenport,
502 Iowa, by E. E. Cook, Esq., its solicitor, and on its motion an appeal to the Supreme Court of the United States is allowed on its entering into bond to the county of Franklin in the penalty of one thousand dollars and conditioned as the law directs.

And thereupon, on the day and year last aforesaid, the said defendant, The German Savings Bank of Davenport, Iowa, filed its bond for appeal in said cause in the words and figures following, to wit:

Bond for Appeal.

Circuit Court of the United States for the Southern District of Illinois.

Know all men by these presents that we, The German Savings Bank of Davenport, Iowa, a corporation organized and existing under the laws of the State of Iowa, and C. H. Deere and Morris Rosenfield, of the county of Rock Island and State of Illinois, are held and firmly bound unto the county of Franklin, in the State of Illinois, in the sum of one thousand dollars, to be paid to the said county of Franklin; to which payment, well and truly to be made, we bind ourselves, and each of us, jointly and severally, and our and each of our successors, executors, and
503 administrators, firmly by these presents.

Sealed with our seals.

Dated this ninth day of June, 1885.

Whereas the above-named The German Savings Bank of Davenport, Iowa, is about to prosecute an appeal to the Supreme Court of the United States to reverse the judgment and decree rendered in a certain action, at the June term, 1883, by the circuit court of the United States for the southern district of Illinois, in which action the County of Franklin (in the State of Illinois) was complainant and the German Savings Bank of Davenport, Iowa, and others were defendants, whereby the validity of nine certain bonds, owned by the said bank and executed by the said county of Franklin, was denied:

Now, therefore, the condition of this obligation is such that if the above-named The German Savings Bank of Davenport, Iowa, shall prosecute its said appeal to effect and answer all costs and
504 damages rendered and to be rendered in case the decree shall be affirmed or if it shall fail to make good its said appeal,

then this obligation shall be void; otherwise to remain in full force and virtue.

In witness whereof the said corporation, The German Savings Bank of Davenport, Iowa, has caused this instrument to be signed by its cashier and its corporate seal to be annexed, and the said C. H. Deere and Morris Rosenfield have signed and sealed this instrument.

[L. S.] THE GERMAN SAVINGS BANK
OF DAVENPORT, IOWA,
By H. H. ANDRESEN, *I-s Cash'r.*
C. H. DEERE. [SEAL.]
MORRIS ROSENFIELD. [SEAL.]

STATE OF ILLINOIS, }
County of Rock Island, } *ss:*

We, C. H. Deere and Morris Rosenfield, being duly sworn, depose and say, each for himself: That he is worth the sum of more than twenty-five thousand dollars over and above all his just debts and liabilities.

C. H. DEERE.
MORRIS ROSENFIELD.

505 Subscribed by the said C. H. Deere & Morris Rosenfield in my presence, and by them severally sworn to before me, this 9th day of June, 1885.

[L. S.] J. S. GILLMORE,
Notary Public, Rock Island Co., Ill.

STATE OF ILLINOIS, }
County of Rock Island, } *ss:*

I, Richard A. Donaldson, clerk of the county court of Illinois for the county of Rock Island, do hereby certify that I personally know C. H. Deere and Morris Rosenfield, whose names are subscribed to the foregoing bond, and am acquainted with their financial standing, and I regard them as amply sufficient for the amount of said bond, and were the said bond in any proceeding in this court offered to me I should accept and approve the same unqualifiedly.

Given under my hand — official seal, at Rock Island, Illinois, this 9th day of June, A. D. 1885.

[L. S.] RICHARD A. DONALDSON,
Clerk Co. Court.

506 I approve the foregoing bond and the sufficiency of the sureties thereto.

S. H. TREAT,
Dist. Judge.

(Indorsed:) Filed June 12, 1885. J. A. Jones, clerk.

UNITED STATES OF AMERICA, }
Southern District of Illinois, } *ss:*

I, John A. Jones, clerk of the circuit court of the United States for

said district, do hereby certify the foregoing to be a true and complete copy of all the papers filed and proceedings thereon had in a certain cause lately determined in said court, wherein The County of Franklin, Illinois, is complainant and The Belleville and Eldorado Railroad Company, George P. Dally, John Graham, German Savings Bank of Davenport, Iowa, Anthony Reiz, George W. Steele, Sarah B. Bruyn, People's Savings Bank of Evansville, Indiana, Park Banking Company of Rockville, Indiana, Solomon Rothchild, Benjamin Rothchild, and Thomas E. Garvin were defendants, as the same now appears from the records and files of said court in my office.

507 In testimony whereof I have hereunto set my hand and affixed the seal of said court, at my office, in the city of Springfield, in said district, this 31st day of August, in the year of our Lord one thousand eight hundred and eighty-five, and of the Independence of the United States the one hundred and tenth year.

[The Seal of the Circuit Court of the United States for the South'n Dist., Ill.]

JOHN A. JONES, *Clerk.*

My fees for making this record (one hundred & three dollars & fifty-five cents, $103.55) were paid by E. E. Cook, Esq., solicitor for German Savings Bank, of Davenport, Iowa.

JOHN A. JONES, *Clk.*

508 In the Circuit Court of the United States, Southern District of Illinois.

THE COUNTY OF FRANKLIN (in the State of Illinois), Complainant,

vs.

THE BELLEVILLE AND ELDORADO RAILROAD COMPANY and THE GERMAN SAVINGS BANK OF DAVENPORT, IOWA, *et al.*, Defendants.

UNITED STATES OF AMERICA, *ss:*

To the County of Franklin, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday in October, 1885, pursuant to an appeal allowed to and taken by the German Savings Bank of Davenport, Iowa, from the decree rendered in the above-entitled cause in the said circuit court of the United States, southern district of Illinois, as of date July 3d, 1883, to show cause, if any there be, why the said decree should not be reversed, and speedy justice should not be done to the parties in that behalf.

Witness the Honorable Samuel H. Treat, district judge of the district court of the United States for the southern district of Illinois, this twelfth day of June, in the year of our Lord one thousand eight hundred and eighty-five.

S. H. TREAT,
District Judge.

509 STATE OF ILLINOIS, } ss:
Franklin County, }

I, William R. Jones (sheriff of Franklin county, Illinois), being duly sworn, do say upon my oath: That on the 14th day of July, 1885, in the said county of Franklin and State of Illinois, I served the attached citation upon Thomas J. Layman, the solicitor for the said County of Franklin, complainant, by reading the same to him and by delivering to him a true copy thereof.

WILLIAM R. JONES, *Sheriff.*

Subscribed by the said William R. Jones in my presence, and by him sworn to before me, this 14th day of July, 1885.

[Seal Circuit Court, Franklin County, Ill.]

WM. F. SPILLER,
Circuit Clerk.

510 [Endorsed:] U. S. circuit court, southern dist. of Ill. The County of Franklin *v.* The Belleville & Eldorado R. R. *et al.* Citation on appeal of German Savings Bank. Sheriff's fee, $2.00, paid by E. E. Cook.

Endorsed on cover: S. Illinois C. C. U. S. No. 970. The German Savings Bank of Davenport, Iowa, appellant, *vs.* The County of Franklin, Illinois. Filed September 24, 1885.